Special Report (1)

Public Inquiry Into The Disappearance Of Pastor Raymond Koh

by

Human Rights Commission Of Malaysia (SUHAKAM)

Kuala Lumpur, 3 April 2019

The Panel:

Dato' Mah Weng Kwai, Prof. Dato' Dr Aishah Bidin & Dr Nik Salida Suhaila Nik Saleh

Counsel/Officer appearing before the Panel:

For the family of Pastor Raymond Koh - Dato' Gurdial Singh Nijar, Dato' Jerald Gomez, Philip Koh, Steven Thiru, Larissa Ann Louise & Michelle Wong
For SUHAKAM - Simon Karunagaram, Joshua Ericsson & Yustina Ishak
For the Bar Council - Roger Chan Weng Keng, Mansoor Saat & Cyrus Tiu Foo Woei

Introduction

[1] This is the Human Rights Commission of Malaysia (Suruhanjaya Hak Asasi Manusia Malaysia) ("SUHAKAM") Panel's final decision in the Public Inquiry into the disappearance of Pastor Raymond Koh Keng Joo ("Pastor Raymond Koh").

Disappearances Of Joshua Hilmi, Ruth Hilmi, Amri Che Mat And Pastor Raymond Koh

[2] Since November 2016, Peter Pormannan a/l Annamalai ("Peter") had made various attempts to contact his friends Joshua Hilmi (who was also known as Hilmi bin Hanim) and his wife, Ruth Hilmi. Their last known address was at Kampung Tunku, Petaling Jaya. On 6 March 2017, Peter lodged a police report at the Klang District Police Headquarters stating that despite various attempts to locate Joshua Hilmi and Ruth Hilmi, the couple was uncontactable. Both Joshua Hilmi and Ruth Hilmi have not been seen, heard of or heard from, since November 2016 until now, and are believed to have "disappeared".

[3] On 24 November 2016, Amri Che Mat was last seen by his wife, Norhayati Mohd Ariffin ("Norhayati") at about 10.30pm. Their daughter, Nur Masarrah saw him leaving their house in his car at about 11.30pm.

Following that, his car was found abandoned with the windows smashed at a disused construction site at Bukit Chabang, Kangar, Perlis. Amri Che Mat has not been seen, heard of, or heard from, since then until now, and is believed to have "disappeared."

[4] Less than three months later, on 13 February 2017, Pastor Raymond Koh was last seen by his wife Susanna Liew Sow Yoke (IW2) ("Susanna") at about 10.15am. Subsequently, one Roeshan Celestine Gomez (IW1) ("Roeshan") lodged a police report stating that at about 10.45am, he saw a car being "boxed in" by three black four-wheel drive vehicles ("4WDs") while he was driving along Jalan SS4B/10, Kelana Jaya, Selangor. The driver was seen being dragged out of his car and put into one of the three 4WDs. This incident was captured on closed-circuit television ("CCTV") of two nearby houses. Pastor Raymond Koh has not been seen, heard of or heard from, since then and is believed to have "disappeared".

[5] These three cases of disappearance of persons attracted a significant amount of public attention and concern. It has also led the public to perceive that these disappearances of persons may have been the acts of the State and/or that the State may either have been complicit, involved, supportive of or concealing these unprecedented disappearances.

Memorandum Submitted To SUHAKAM

[6] In furtherance of the protection and promotion of human rights in Malaysia, SUHAKAM was established under the Human Rights Commission of Malaysia Act 1999 ("the Act").

[7] SUHAKAM's functions are set out in s. 4 of the Act, in particular, s. 4(1)(d) which provides that one of the functions of SUHAKAM "shall be to inquire into complaints regarding infringements of human rights."

[8] Further, s. 12 of the Act empowers SUHAKAM to act on its own motion to inquire into allegations of infringement of human rights or to act on complaints submitted to SUHAKAM.

[9] Due to the serious concerns surrounding the three cases of disappearances, on 20 April 2017, a coalition of civil society groups led by Suara Rakyat Malaysia (SUARAM) submitted a Memorandum to SUHAKAM on behalf of the families of the several persons that were reportedly missing: Joshua Hilmi and his wife, Ruth Hilmi, social activist Amri Che Mat and Pastor Raymond Koh ("Missing Persons"). SUHAKAM was called on to assist the families concerned, to investigate and determine the whereabouts of these Missing Persons and to serve as a channel of communication between the families, the Police and the Government of Malaysia.

[10] On 21 April 2017, the Chairman of SUHAKAM, Tan Sri Razali Ismail ("SUHAKAM Chairman") issued a press statement[1] calling on the authorities to use all means at their disposal to discover the fate of these Missing Persons, to take all necessary steps to alleviate the concerns and unease among the public in this regard and to bring to justice those responsible for the disappearances.

[11] Up to June 2017, the disappearances of Joshua Hilmi, Ruth Hilmi, Amri Che Mat and Pastor Raymond Koh remained unresolved. It must be highlighted that to date the families of the Missing Persons have not received any demand for ransom for their release nor has anyone or party claimed responsibility for the disappearance of the Missing Persons.

[12] On 16 June 2017, SUHAKAM released a press statement[2] stating that SUHAKAM will investigate the disappearances of the Missing Persons in accordance with its statutory mandate and powers. SUHAKAM further stated that it would assist the authorities with their ongoing investigations and called on individuals who may have relevant and important information to come forward in order to have their statements recorded by SUHAKAM.

[13] Notwithstanding the above, SUHAKAM reiterated its calls on all the relevant authorities to fully and expeditiously investigate the disappearances, especially when there are suspicions in the minds of the public that the disappearances may be enforced disappearances.

Panel For The Public Inquiry And Terms Of Reference

[14] On 9 August 2017, the Chairman of SUHAKAM released a press statement to announce that SUHAKAM will be conducting a Public Inquiry into the disappearances of Joshua Hilmi and Ruth Hilmi, social activist Amri Che Mat and Pastor Raymond Koh.[3] In its statement, SUHAKAM announced that the Public Inquiry, scheduled to commence in October 2017, would consider, among others:

14.1 Whether these disappearances are cases of enforced or involuntary disappearances, as defined under the International Convention for the Protection of All Persons from Enforced Disappearance ("ICPPED") which explains an enforced disappearance as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State; and

14.2 Whether the authorities, specifically the police have taken adequate steps to investigate these cases.

[15] On 5 October 2017, pursuant to SUHAKAM's press statement on 9 August 2017, a Panel for the Public Inquiry was formed to investigate the disappearances. The Panel comprised three SUHAKAM Commissioners namely, Dato' Mah Weng Kwai (Chairman), Prof Dato' Dr Aishah Bidin and Dr Nik Salida Suhaila binti Nik Saleh ("Panel").

[16] The terms of reference[4] of the Public Inquiry ("Terms of Reference") are as follows:

(a) To determine whether these are cases of enforced disappearances as defined under the International Convention for Protection of all Persons from Enforced Disappearances or are cases of involuntary disappearances in breach or breaches of the criminal and/or civil law and/or applicable human rights laws (hereinafter referred to as such alleged breach or breaches);

(b) If (a) has been established at the inquiry:

(i) How such alleged breach or breaches came about;

(ii) To identify person(s) or agency(ies) responsible for such alleged breach or breaches;

(iii) What administrative directives or procedures, or arrangements contributed to such alleged breach or breaches.

(c) To consider whether the authorities, specifically the Royal Malaysian Police have taken adequate steps to investigate such alleged breach or breaches.

(d) To recommend measures or guidelines to be taken to ensure that such alleged breach or breaches do not recur.

Public Inquiry Into Pastor Raymond Koh's Disappearance

[17] On 19 October 2017, the Panel commenced the hearing of the Public Inquiry into the disappearance of Pastor Raymond Koh. The hearings were scheduled on the following dates:

17.1 19 and 20 October 2017;

17.2 2, 3, 13 to 16 and 21 to 23 November 2017.

[18] To assist its investigation, the Panel called 11 witnesses to testify in the course of the hearing.

Letter From The Royal Malaysian Police Dated 15 January 2018

[19] In the evening of 15 January 2018, a day before the next hearing date, the Panel received a letter from the Royal Malaysian Police ("the Police") which amongst others stated that one Lam Chang Nam was arrested on 12 January 2018 and that he was charged in court for an offence under s. 365

of the Penal Code in relation to the disappearance of Pastor Raymond Koh. As such, the Public Inquiry should cease immediately pursuant to s. 12(3) of the Act as the disappearance of Pastor Raymond Koh became the subject matter of criminal proceedings pending in court.

[20] Section 12 of the Act reads as follows:

Commission may inquire on own motion or on complaint

12(1) The Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, inquire into an allegation of the infringement of human rights of such person or group of persons.

(2) *The Commission shall not inquire into any complaint relating to any allegation of the infringement of human rights which – (a) is the subject matter of any proceedings pending in any court, including any appeals; or (b) has been finally determined by any court.*

(3) If the Commission inquires into an allegation under subsection 12(1) and during the pendency of such inquiry *the allegation becomes the subject matter of any proceedings in any court, the Commission shall immediately cease to do the inquiry.*

[21] In light of s. 12(3) of the Act and in deference to the action taken by the police, the Panel decided to temporarily cease the Public Inquiry pending the hearing of submissions by counsel acting on behalf of all parties and the officers appearing for the police on the law and facts pertaining to the disappearance of Pastor Raymond Koh.

[22] On 16 May 2018, the Panel held that it will proceed with the hearing of the Public Inquiry into the disappearance of Pastor Raymond Koh and came to the following conclusion namely:

(G) Conclusion

In the written and oral submissions of Counsel for the Family and Counsel for the Bar Council, Counsel had clearly taken the position that the subject matter before the Court is not the same subject matter as in the Pl. The SUHAKAM Assisting Officers initially took the position that the subject matter is the same, but later changed their view in their second submission, by stating that the subject matter was not the same and that the Panel should continue with the PI *albeit* within certain areas of questioning. After giving much consideration to the written and oral submissions of Counsel and SUHAKAM Assisting Officers and for all the reasons stated above, the Panel concludes that the subject matter before the Court is not the SAME subject matter that is before the Pl.

The Panel has to deal with the subject matter of "enforced disappearance' to ensure that not only Pastor Raymond Koh has access to justice and truth but his Family members as well. The Family has been continuously disappointed by the police authorities in the investigation of the alleged

> disappearance of Pastor Raymond Koh. Where else or how else would Pastor Raymond Koh and his Family gain their right to a remedy for a grievance allegedly caused by the State? When the Act was established, it was Parliament's intention to protect and promote human rights in Malaysia. The Act gives SUHAKAM the power and functions to investigate into infringements of human rights. Hence, the PI cannot cease to be a platform for Pastor Raymond Koh and his Family to seek their remedy.
>
> In the result, the Panel hereby decides that it will proceed and continue with the hearing in the PI into the alleged disappearance of Pastor Raymond Koh, notwithstanding the letter received from PDRM involving the provision of section 12(3) to cease the PI as the subject matter the Panel will have to deal with in accordance to the Terms of Reference, is not the same subject matter as in the court proceedings. The Panel will continue to deal with the subject matter stated in the first limb of paragraph (a), paragraphs (b) and (c) of the Terms of Reference.[5]

[23] On 7 December 2018, the Panel completed the Public Inquiry into the disappearance of Pastor Raymond Koh. The Public Inquiry took approximately nine months from the beginning of October 2017 to the start of December 2018. In total, there were 20 days of hearing and the Panel heard the testimony of 16 witnesses.[6]

[24] The Public Inquiry into the disappearance of Joshua Hilmi and his wife Ruth Hilmi have not commenced, to date.

[25] Separate decisions of the Public Inquiry into the disappearances of Pastor Raymond Koh and Amri Che Mat will be delivered accordingly.

Issues To Be Determined By The Panel

[26] The issues that the Panel was required to determine are summarised as follows:

26.1 Whether the disappearance of Pastor Raymond Koh is a case of voluntary disappearance;

26.2 Whether the disappearance of Pastor Raymond Koh is a case of enforced disappearance as defined under ICPPED that is, by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State; and

26.3 Whether there was a refusal to acknowledge the disappearance of or concealment of Pastor Raymond Koh's fate or whereabouts by the State.

Position Of The Parties

Position Of Counsel On Behalf Of Pastor Raymond Koh's Family

[27] It is the position of counsel on behalf of the family of Pastor Raymond Koh that the disappearance of Pastor Raymond Koh is a case of enforced disappearance as defined under the first limb of art. 2 of ICPPED and that the enforced disappearance was carried out by agents of the State.

[28] Counsel on behalf of the family also submitted in the alternative that the disappearance of Pastor Raymond Koh is a case of enforced disappearance as defined under the second limb of art. 2 of ICPPED and that the enforced disappearance was carried out by persons acting with the authorisation, support and/or acquiescence of the State.[7]

Position Of Assisting Officers of SUHAKAM

[29] It is the position of the Assisting Officers of SUHAKAM that on a balance of probabilities, Pastor Raymond Koh is a victim of enforced disappearance and that he was abducted by a group of highly trained personnel.[8]

Position Of The Malaysian Bar Council

[30] Counsel of the Bar Council have concurred with the submissions made by counsel on behalf of the family. However, counsel of the Bar Council further submitted that the disappearance of Pastor Raymond Koh is a case of involuntary disappearance in breach or breaches of the criminal law, civil law and human rights.[9]

Position Of The Officers Appearing For The Police

[31] Although the Officers Appearing for the police agreed with counsel on behalf of the family, Assisting Officers of SUHAKAM and counsel of the Bar Council that Pastor Raymond Koh is missing and that his whereabouts are to date unknown, it is their position that:

31.1 There is no evidence to show that the Police, as agents of the State, were involved in the disappearance of Pastor Raymond Koh or that his disappearance was carried out by non-State persons acting with the authorisation, support and/or acquiescence of the State.

31.2 The disappearance of Pastor Raymond Koh is connected with the case of Lam Chang Nam who has been charged in court on 15 January 2018 under s. 365 of the Penal Code.

31.3 The disappearance of Pastor Raymond Koh is somehow connected with the search and seizure of the exhibits found in the house of Mohd Fauzi bin Tajuddin ("Fauzi") in Pengkalan Hulu, Perak, who was shot dead by the police in a shootout in Baling, Kedah on 17 June 2017. Fauzi was suspected to be a drug and firearms trafficker. The police contended that the exhibits seized from the house included pictures of Pastor Raymond Koh, his car and his house at Prima Sixteen, Petaling Jaya. The Police believed that Fauzi and his drug trafficking group was the same group involved in the abduction of Pastor Raymond Koh.

[32] The Police have assured the Panel and counsel on behalf of the family, Assisting Officers of SUHAKAM and counsel of the Bar Council that Police investigations into the disappearance of Pastor Raymond Koh are still ongoing and that immediate action will be taken if there are any new developments arising.[10]

Decision Of The Panel

[33] Upon a detailed evaluation of the evidence adduced, having read and considered the written submissions of counsel on behalf of the family, Assisting Officers of SUHAKAM, counsel of the Bar Council and Officers Appearing for the Police ("the Parties") and upon hearing the oral submissions of the Parties on 6 March 2019, the Panel has arrived at a final decision.

[34] After having held lengthy discussions and deliberations in this case, the Panel is of the unanimous view that Pastor Raymond Koh is a victim of an enforced disappearance as defined in art. 2 of ICPPED that took place on 13 February 2017 at about 10.45am.

[35] The disappearance of Pastor Raymond Koh was neither a case of voluntary disappearance nor a case of involuntary disappearance in breach of the ordinary criminal law.

[36] The direct and circumstantial evidence in Pastor Raymond Koh's case proves, on a balance of probabilities, that he was abducted by State agents namely, the Special Branch, Bukit Aman, Kuala Lumpur.

[37] The Panel further finds that there is no evidence to support the contention, as suggested by counsel on behalf of Pastor Raymond Koh's family and counsel for the Bar Council, Pastor Raymond Koh was abducted by persons or groups of persons acting with the authorisation, support or acquiescence of the State.

Grounds Of Decision

The Law

Applicable Human Rights Principles

[38] Human rights are protected under various instruments, both domestically and internationally. International Human Rights Treaties and the Declarations of the General Assembly of the United Nations categorise enforced disappearance as an infringement of human rights.

Right Against Enforced Disappearance Under International Law

[39] "Enforced disappearance" is defined in art. 2 ICPPED as follows:

> For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorisation, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

[40] Although Malaysia is not a signatory to ICPPED, the Panel referred to and considered the definition of 'enforced disappearance' in ICPPED as a guide when addressing the issue of whether Pastor Raymond Koh's disappearance fell within the definition of enforced disappearance in breach or breaches of human rights.

[41] The definition of "enforced disappearance" in ICPPED can be separated into two limbs. The first limb involves the direct participation of the State in the disappearance by forcefully taking the victim away. The second limb speaks of the indirect participation of the State by giving its authorisation, support or acquiescence to the persons or groups of persons who have forcefully taken the victim away. Both limbs of the definition emphasise the involvement and participation of the State in the disappearance.

[42] Article 2 of ICPPED also provides that when the State is involved in the deprivation of liberty, it must be followed by a refusal of the State to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person.

[43] The right against enforced disappearance is also protected in the Universal Declaration of Human Rights 1948 ("UDHR") as follows:

> *Article 3* Everyone has the right to life, liberty and security of the person ...
>
> *Article 6* Everyone has the right to recognition everywhere as a person before the law ...
>
> *Article 9* No one shall be subjected to arbitrary arrest, detention or exile.

[44] By virtue of s. 4(4) of the Act, the Panel shall give regard to the UDHR to the extent that it is not inconsistent with the Federal Constitution.

Right Against Enforced Disappearance Under Malaysian Law

[45] In Malaysia, the right to liberty is enshrined in art. 5 of the Federal Constitution of Malaysia ("FC") which states:

> **Liberty of the person**
>
> 5(1) No person shall be deprived of his life or personal liberty save in accordance with law.

[46] On the issue of the right against enforced disappearance, a distinction must be made between 'enforced disappearance', 'missing person', 'kidnapping' and 'abduction' by referring to s. 3 of the Kidnapping Act 1961 and s. 362 of the Penal Code of Malaysia.[11]

46.1 Section 3 of the Kidnapping Act 1961 provides a case will be one of kidnapping where a ransom is demanded:

> **Abduction, wrongful restraint or wrongful confinement for ransom**
>
> 3(1) Whoever, with intent to hold any person for ransom, abducts or wrongfully confines or wrongfully restrains such person shall be guilty of an offence and shall be punished on conviction with death or imprisonment for life and shall, if he is not sentenced to death, also be liable to whipping.

46.2 Whereas, s. 362 of the Penal Code of Malaysia provides that:

> **Abduction**
>
> 362. Whoever by force compels or by any deceitful means induces any person to go from any place, is said to abduct that person.

46.3 There is no express definition of a 'missing person' but generally speaking when someone has not been seen or heard from for a period of time without any news of his/her whereabouts or whether he/she is still alive, he/she is said to be a missing person. Cases where there appears to be no criminal elements, are usually categorised as missing persons.

[47] It is essential that the State conduct investigations and provide evidence and explanations to the family of the disappeared person. This duty is embedded in the right of the family to know the truth regarding what happened to their loved one. The right extends to the members of the family insofar as it is a violation of mental and moral integrity of the next of kin which is a direct consequence of the enforced disappearance. This was highlighted in the case of *Bamaca-Velazquez v. Guatemala*[12] where the Inter-American Court of Human Rights held:

> 197. In this respect, the Commission declared that the right to the truth has a collective nature, which includes the right of society to "have access to essential information for the development of democratic systems", and a particular nature, as the right of the victims' next of kin to know what happened to their loved ones, which permits a form of reparation. The Inter-American Court has established the obligation of the State to investigate the facts while there is uncertainty about the fate of the person who has disappeared, and the need to provide a simple and prompt recourse in the case, with due guarantees.

What Is A Public Inquiry?

[48] Generally, a Public Inquiry is an official review of events or actions ordered by a Government body. A Public Inquiry accepts evidence and conducts its hearings in a more public forum and focuses on a more specific occurrence.

[49] Interested members of the public and organisations may make written evidential submissions as is the case with most inquiries and listen to oral evidence given by other parties.[13]

[50] A Public Inquiry is a mechanism that can be used to achieve SUHAKAM's mandate to look into systemic human rights issues with a view to solving them through systematic means. By adopting a broad-based human rights approach, it can examine a large number of situations as opposed to an individual complaint. A Public Inquiry has a dual focus, fulfilling both fact finding and educational roles. An effective Public Inquiry is one that is supported by the exercise of powers to subpoena witnesses, to order the production of documents at its hearings, and to produce a report that will be made public containing recommendations to all relevant parties.[14]

Powers Of Inquiry Of SUHAKAM

[51] As mentioned above, SUHAKAM's authority to conduct an inquiry is stipulated in s. 12 of the Act which reads:

> *Commission may inquire on its own motion or on complaint*
>
> *12(1) The Commission may, on its own motion or on a complaint made to it by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons, inquire into an allegation of the infringement of the human rights of such person or group of persons.*

[52] The powers relating to the conduct of public inquiries are found in s. 14 of the Act:

> *Powers relating to inquiries*
>
> 14(1) The Commission shall, for the purposes of an inquiry under this Act, have the power:
>
> (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine;
>
> (b) to require that the evidence, whether written or oral, of any witness be given on oath or affirmation, such oath or affirmation being that which could be required of the witness if he were giving evidence in a court of law, and to administer or cause to be administered by an officer authorised in that behalf by the Commission an oath or affirmation to every such witness;
>
> (c) to summon any person residing in Malaysia to attend any meeting of the Commission to give evidence or produce any document or other thing in his possession, and to examine him as a witness or require him to produce any document or other thing in his possession;

(d) to admit notwithstanding any of the provisions of the Evidence Act 1950 [Act 56], any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings; and

(e) to admit or exclude the public from such inquiry or any part thereof. "Conduct of the Inquiry."

[53] Prior to the hearings at the Public Inquiry, officers of SUHAKAM recorded statements of individuals who came forward to assist SUHAKAM with information relating to the disappearance of Pastor Raymond Koh. The officers also carried out investigations seeking to interview possible witnesses.

[54] At the hearings of the Public Inquiry, witnesses who had their statements recorded by the officers of SUHAKAM prior to the Public Inquiry, were shown their statements. The witnesses were requested to read the statements and to confirm the contents stated therein. The statements were then marked as exhibits. Each witness was then examined by counsel representing the parties, including officers appearing for the police. Witnesses who did not give their statements prior to the Public Inquiry were similarly examined by counsel representing the parties, including Officers Appearing for the Police. In the course of the hearings, various video recordings, photographs and documents were tendered as evidence and marked as exhibits. All witnesses gave their evidence on affirmation.

[55] At the conclusion of the Public Inquiry, the Panel directed counsel representing the family, Assisting Officers of SUHAKAM, counsel of the Bar Council and officers appearing for the police to submit their written submissions pertaining to all issues arising from the Panel's Terms of Reference for the consideration of the Panel.

Elements To Be Proven At A Public Inquiry

[56] The definition of enforced disappearances in the ICPPED contains various degrees of the State's culpability regarding the initial disappearance. The degrees of State's culpability are listed below in descending order:

56.1 that the victim was arrested or detained by agents of the State;

56.2 that the victim was abducted by agents of the State;

56.3 that the victim was abducted by persons or groups of persons acting with the authorisation of the State;

56.4 that the victim was abducted by persons or groups of persons acting with the support of the State; or

56.5 that the victim was abducted by persons or groups of persons acting with the acquiescence of the State.

[57] In Pastor Raymond Koh's case, the first degree of culpability is not relevant. There is no evidence to indicate that Pastor Raymond Koh was arrested or detained by State agents in the exercise of their lawful powers. As such, the degrees of the State's culpability that are relevant in Pastor Raymond Koh's case are the second to fifth degrees.

[58] Therefore, the Panel is required to determine whether the circumstantial evidence in Pastor Raymond Koh's case, proves on a balance of probabilities that he was either abducted by State agents or abducted by non-State agents with the authorisation, support and/or acquiescence of the State.

[59] Further, the Panel is required to determine whether the evidence, direct and/or circumstantial, can prove on a balance of probabilities, that after the disappearance of Pastor Raymond Koh had occurred, the State has refused to acknowledge the deprivation of liberty of the person or has concealed the fate or whereabouts of the disappeared person as provided under art. 2 of ICPPED mentioned above.

[60] In a case of an enforced disappearance, there is an indivisible connection between the initial disappearance and the refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the disappeared person. This is stated by the European Court of Human Rights in the case of *Varnava & Ors v. Turkey*[15]:

> 148. A disappearance is a distinct phenomenon, characterised by an ongoing situation of uncertainty and unaccountability in which there is a lack of information or even a deliberate concealment and obfuscation of what has occurred. This situation is very often drawn out over time, prolonging the torment of the victim's relatives. It cannot therefore be said that a disappearance is, simply, an "instantaneous" act or event; the additional distinctive element of subsequent failure to account for the whereabouts and fate of the missing person gives rise to a continuing situation.

[61] In the case of *Ng Yee Fong & Anor v. EW Talalla* [1985] 1 LNS 146, Mohamad Azmi SCJ defined the word "acquiescence" as follows:

> ... properly used where a person having a right, and seeing another person about to commit or in the course of committing an act infringing upon that right, stands by in such a manner as really to induce the person committing the act, and who might otherwise have abstained from it, to believe that he assents to it being committed; a person so standing by cannot afterwards be heard to complain of the act (see *De Bussche v. Alt* (1878) 8 Ch D 286 314). In that sense the doctrine of acquiescence may be defined as acquiescence under such circumstances that assent may be reasonably inferred from it.

[62] The family and other persons acting on behalf of Pastor Raymond Koh do not have the investigative powers of the State to secure evidence on the identity of the person or persons who caused the disappearance in order to prove with precision the culpability of the State.

[63] At the conclusion of the inquiry, if the Panel's finding is that this case is one of an enforced disappearance, the Panel is empowered under s. 13(2) of the Act to refer it to the relevant authorities or persons with the necessary recommendations.

[64] On the other hand, in the event that the Panel's finding is that the disappearance is an involuntary disappearance in which the State is not concerned, the Panel similarly has powers under s. 13(2) of the Act to refer the case to relevant authorities or persons with the necessary recommendations.

Standard Of Proof In A Public Inquiry

[65] There is no provision in the Act which sets out the standard of proof that is to be applied in a Public Inquiry. However, this does not mean that there is no standard of proof that the Public Inquiry is required to meet.

[66] A Public Inquiry is an investigative inquiry similar to an inquest (an inquiry into a death by a coroner). Although a Public Inquiry is not an inquest or a civil or criminal trial, the Panel is of the view that the standard of proof to be applied in a Public Inquiry is of the same standard of proof applicable to an inquest, that is, on a balance of probabilities and not beyond reasonable doubt.

[67] While an inquest is for the purposes of determining whether any person may be criminally concerned in the cause of death and to arrive at a verdict, a Public Inquiry into the enforced disappearance of a person is for the purpose of determining whether the State is in any way concerned in the involuntary disappearance of that person.

[68] The relevant principles on the standard of proof in an inquest were discussed in detail by the Court of Appeal in the case of *Teoh Meng Kee v. Public Prosecutor* [2014] 5 MLJ 741 where Mohammad Ariff JCA held as follows:

> [48] The learned magistrate, and to a lesser extent, the High Court judge, cited and repeated the *basic principles and rules on coronial jurisdiction.... The commonly accepted principles are as follows:*
>
> *(a) an inquest is a fact-finding exercise and not a method of apportioning guilt;*
>
> *(b) in an inquest, there is no indictment, no prosecution, no defence and no trial. It is simply an attempt to establish facts;*
>
> *(c) it is an inquisitorial and an investigation process, unlike a trial;*
>
> *(d) a coroners verdict is not determined by probabilities but by established facts. A coroner is bound by evidence and can only find facts proved by evidence, not guesswork;*
>
> (e) if the evidence is insufficient to come to a definite finding, the coroner should record an open verdict;

(f) the function of a magistrate holding an inquiry under Chapter XXXII of the CPC is to inquire, when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of death (s. 337). The cause of death is defined under s. 328 to include not only the apparent cause of death as ascertainable by inspection or post-mortem examination of the body of the deceased but also all matters necessary to enable an opinion to be formed as to the manner in which the deceased came by his death and as to whether his death resulted in any way from, or was accelerated by any unlawful act or omission on the part of any person. Hence, *the magistrate holds an inquiry by examining witnesses on oath and while usually following the ordinary rules of evidence, he may admit any evidence which he thinks fit, especially hearsay evidence;*

(g) the verdict of the magistrate is only an expression of a non-binding opinion of a proceeding where there is no accusation against any party;

(h) it follows that a coroners inquest is merely a court of law, not a court of justice. Its verdict does not amount to any conviction.

(i) many of these principles are outlined in our Practice Directions No 1 of 2007: Guidelines on Inquest (as restated in Practice Direction No 2 of 2014 Arahan Amalan Bil 2 Tahun 2014: Pengendalian Siasatan Kematian (Death Inquiry) Selaras Dengan Penubuhan Mahkamah Khas Koroner) To quote some of the parts immediately relevant to this appeal:

1. What is an Inquest?

(a) It is not a trial.

(b) There are no parties to prosecute and to defend.

(c) It is only an inquiry by a magistrate as to the cause of death 'and the Prosecuting Officer is there not to prosecute anyone but only to assist the court with the examination of witnesses for the purpose of giving evidence ...

(f) A magistrate Coroner shall not express any opinion on any matter until the conclusion of the inquest.

(g) There is no conviction or punishment at the end of it.

[70] ... the scheme and structure of the interlocking provisions under Chapter XXXII of the CPC mandate a lower standard. *I am therefore of the view that the applicable standard should be the civil standard of proof on a balance of probabilities.*

[69] In the case of *Teoh Meng Kee* above, Mah Weng Kwai JCA further held as follows:

[108] It will be noted that s. 328 of the CPC speaks of opinion. The *section does not stipulate what the standard of proof is that has to be applied in an inquiry of death. Although* s. 328 of the CPC is *silent on the standard of proof, of course, it cannot be said that there is no standard to be applied.* That would be an

unacceptable position in law. *I am of the view that all that is required of the magistrate is to arrive at an opinion applying the balance of probabilities (civil) standard test on an objective basis.* There must be sufficient evidence to arrive at an opinion, in particular whether the death resulted in any way from or was accelerated by any unlawful act or omission on the part of any other person.

Standard Of Proof In An Inquiry Of Death

[118] The next question of law of utmost importance to be determined in this case is the *standard of proof to be applied in an inquiry of death.* Both the learned magistrate and the learned High Court judge adopted the beyond reasonable doubt test. With respect, I am of the view that this is an error of law as *the correct test to be applied is the civil standard of balance of probabilities.* I say this for the following reasons:

(a) as stated earlier, *an inquiry of death is not a criminal trial or proceeding. There is no accused person on trial and there is no one to be convicted and sentenced by the court* upon a finding that the prosecution has proved its case beyond reasonable doubt;

(b) *the rules on admissibility of evidence and procedure in an inquiry of death are not as strict as in a criminal trial. The magistrate is on a mere fact-finding mission and is allowed to consider even hearsay evidence.* In the case of *Re Loh Kah Kheng (deceased)* [1990] 2 MLJ 126 it was held that a *coroner is not bound by the normal procedure of courts and rules of evidence;*

(c) where the *rules relating to evidence and procedure are lax, it will be inconsistent to require* a magistrate to return *a verdict at the close of an inquiry on a beyond reasonable doubt standard;*

(d) it will be incorrect to require the family of Teoh Beng Hock to have to prove a case beyond reasonable doubt before the learned magistrate can return a verdict of homicide as the means to do so are severely limited. The family of Teoh Beng Hock, being *members of the public, simply do not have the powers of investigation as possessed by the police. And where the threshold for proof in an inquiry of death is lower, it will not be correct nor necessary to expect members of the public to produce evidence on a beyond reasonable doubt standard* and yet expect a verdict to be proved beyond reasonable doubt;

(e) a magistrate conducting an inquiry of death is merely to ascertain whether anyone is criminally concerned in the cause of death. He has no power to hold or find anyone criminally liable in the cause of death on a beyond reasonable doubt standard;

(f) in the event a person or persons is/are arrested for being criminally liable in the cause of death it is then for the prosecution to charge the person/s for an offence of homicide and where it will be incumbent upon the prosecution to prove a case beyond reasonable doubt before a conviction can be secured;

A (g) for the police to effect an arrest of a suspect, all that the police have to show at that stage of investigations is that there is reasonable ground of suspicion to support the arrest. The police most certainly do not have to have reasonable grounds on a beyond reasonable doubt standard, before effecting the arrest. Now, if the police can effect an arrest based on reasonable
B suspicion (see *Shaaban & Ors v. Chong Fook Kam & Anor* [1969] 2 MLJ 219) why then should the bar or threshold be raised in an inquiry of death to a standard beyond reasonable doubt before the learned magistrate can return a verdict of homicide? I see no basis for this approach as after all, in fact and in reality, the recording of evidence in an inquiry by the learned magistrate can be likened
C to an extension of investigations by the police. In *Shaaban*'s case it was held that the police are entitled to make an arrest if a reasonable suspicion existed that the suspect was concerned with the offence. It is unnecessary for the police to show that there was *prima facie* proof of such offence before an arrest.

D [119] It is not in dispute that in an inquest the evidence adduced must be credible so as to become the basis for the coroners finding (see *Inquest into the death of Sujatha Krishnan, deceased* [2009] 5 CLJ 783); that the verdict must not be based on guess work but on particulars which have been proved in evidence (see *R v. Huntback; exparte Lockley* [1944] KB 606, *Re Derek Selby, deceased* [19711 2 MLJ 277); a magistrate who conducts an
E inquiry must confine himself to the evidence made available to him and at the end of the day must decide on that evidence alone (see *Public Prosecutor v. Shanmugam & Ors* [2002] 6 MLJ 562); that a magistrate can only make a definite finding based on proved facts produced and not on mere conjectures (see *Re Rumie Mahlie, deceased* [2007] MLJU 280; [2007] 10 CLJ 69).

F [120] In Victoria, Australia in the case of *Anderson v. Blashki* [1993] VR 89 it was held that the standard of proof to be applied by the coroner in investigating a death is the civil standard of the balance of probabilities (see also *Briginshaw v. Briginshaw* (1938) 60 CLR 336). In the infamous case of *Inquest into the death of Azaria Chantei Loren Chamberlain* [2012] NTMC
G 020, it was held by the High Court of Australia that in the coronial jurisdiction, the test applied is a balance of probabilities test.

[122] Returning to the issue of the standard of proof applicable in an inquiry of death, a useful comparison may be made with the standard applied in preliminary inquiries into cases (namely, capital offences) triable
H by the High Court before Chapter XVII, ss. 138 151 of the CPC were deleted by Act A908. For purposes of committal of a case for trial in the High Court, reliance used to be placed by the prosecution on the phrase sufficient grounds for committing as provided for by the former s. 140(i) of the CPC. What this meant was that there must be credible evidence shown by the prosecution for a case to be committed for trial. The
I standard of proof in a preliminary inquiry had always been on a standard lower than that of beyond reasonable doubt. In *Public Prosecutor v. Puspanathan a/l Sinnasamy & Ors* [1996] 4 MLJ 165, Mohd Hishamudin J (now JCA) had occasion to say that for the purposes of the preliminary

inquiry, the prosecution was only required to adduce sufficient evidence identifying the body of the deceased, and was not required to prove this beyond reasonable doubt. In a criminal trial, as opposed to a mere preliminary inquiry, the standard of proof is higher (see p 169 E F, H I; *Teay Wah Cheong v. Public Prosecutor* [1964] 1 MLJ 21 and *Fazal Din v. Public Prosecutor* [1949] MLJ 123 distinguished).

[70] Thus, the standard of proof applicable in a Public Inquiry under s. 12 of the Act is on a balance of probabilities (that is, the standard or quantum of proof in a civil case). In essence, this means that the Panel is entitled to accept and rely on evidence which is probably true and which does not need to be proved to be beyond reasonable doubt.

Burden Of Proof In Cases Of Enforced Disappearance

[71] On the burden of proof, that is, on whose shoulders lie the burden of proving the case, the approach taken in international human rights cases on enforced disappearances, is illustrative to show that the burden of proof lies on the State itself. This was held by various courts as follows:

71.1 *Bamaca-Velasquez v. Guatemala*[16], the Inter-American Court of Human Rights held as follows:

> As this Court has often repeated, in cases of forced disappearance, the State's defense cannot rely on the impossibility of the plaintiff to present evidence in the proceedings since, in such cases, it is the State that controls the means to clarify the facts that have occurred in its jurisdiction and, therefore, in practice, it is necessary to rely on the cooperation of the State itself in order to obtain the required evidence.
>
> ... In cases such as forced disappearance - and others ... – the State has better possibilities of assuming the function of proving what it denies, than the individual to prove what he affirms

71.2 *Godinez Cruz v. Honduras*[17], the Inter-American Court of Human Rights held:

> 141. In contrast to domestic criminal law, in proceedings to determine human rights violations the State- cannot rely on the defense that the complainant has failed to present evidence when it cannot be obtained without the State's cooperation.
>
> 142. The State controls the means to verify acts occurring within its territory. Although the Commission has investigatory powers, it cannot exercise them within a State's jurisdiction unless it has the cooperation of that State.[18]

71.3 *Varanava & Ors v. Turkey*[19], the European Court of Human Rights held:

> 184. As a logical development of this approach, in the situation where persons are found injured or dead, or who have disappeared, in an area within the exclusive control of the

> authorities of the State and there is prima facie evidence that the State may be involved, the burden of proof may also shift to the Government since the events in issue may lie wholly, or in large part, within the exclusive knowledge of the authorities. If they then fail to disclose crucial documents to enable the Court to establish the facts or otherwise provide a satisfactory and convincing explanation, strong inferences may be drawn.

71.4 *Bleier v. Uruguay*[20], the Human Rights Committee of the United Nations held:

> 13.3 With regard to the burden of proof, this cannot rest alone on the author of the communication, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to relevant information ... In cases where the author has submitted to the Committee allegations supported by substantial witness testimony, as in this case, and where further clarification of the case depends on information exclusively in the hands of the State party, the Committee may consider such allegations as substantiated in the absence of satisfactory evidence and explanations to the contrary submitted by the State party.

[72] Thus, the burden of proof in cases of enforced disappearances rests with the State. This means that the Panel is entitled to accept inferences submitted by counsel on behalf of the family, Assisting Officers of SUHAKAM and counsel of the Bar Council against the State. It is for the State to adduce satisfactory evidence and give explanations on a balance of probabilities to show that the State was not in any way involved in the disappearance of the person within the definition of enforced disappearance under art. 2 of ICPPED.

Admissibility Of Evidence

[73] The Panel is not constrained or limited by the Evidence Act 1950 in the reception of evidence during the Public Inquiry. A flexible approach is taken whereby evidence which is not usually admitted in criminal and civil proceedings may be received by the Public Inquiry. This is recognised by s. 14(1)(a) and (d) of the Act where it states the "The Commission shall, for the purposes of an inquiry under this Act, have the power – (a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses, as the Commission thinks necessary or desirable to procure or examine;" and "(d) to admit *notwithstanding any of the provisions of the Evidence Act 1950* (Act 56), any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings.

[74] This flexibility is in line with international standards regarding human rights inquiries in the following cases:

74.1 In *Bamaca-Velasquez v. Guatemala*[21], the Inter-American Court of Human Rights held:

> 97. In an international tribunal such as the Court, whose aim is the protection of human rights, the proceeding has its own characteristics that differentiate it from the domestic process. The former is less formal and more flexible than the latter, which does not imply that it fails to ensure legal certainty and procedural balance to the parties. This grants the Court a greater latitude to use logic and experience in evaluating the evidence rendered to it on the pertinent facts.
>
> 131. Taking this into account, the Court attributes a high probative value to testimonial evidence in proceedings of this type, that is, in the context and circumstances of cases of forced disappearance, with all the attendant difficulties, when, owing to the very nature of the crime, proof essentially takes the form of indirect and circumstantial evidence.

74.2 In *Velasquez-Rodriguez v. Honduras*[22], the Inter-American Court of Human Rights held that direct evidence is not the only type of evidence that may be legitimately considered. Circumstantial evidence, indicia and presumptions, may also be considered so long as they lead to conclusions consistent with the facts. Further, the court held:

> 131. Circumstantial or presumptive evidence is especially important in allegations of disappearances, because this type of repression is characterised by an attempt to suppress all information about the kidnapping or the whereabouts and fate of the victim.

[75] Cases of enforced disappearances are usually characterised by attempts to suppress all information by the State. Typically, complainants in such cases do not have direct evidence to show that State agents are concerned in the disappearances and must rely on circumstantial evidence. Complainants also typically do not have the means to identify with precision the State agents concerned in the disappearances.

[76] The evidence adduced before the Panel to show that the State was concerned in the disappearance is usually circumstantial evidence which gives rise to the inference that State agents are involved in the disappearance. It is only through the exercise of the State's investigative power, would the perpetrators, and their roles, be identified with precision.

[77] The consideration in cases where evidence was entirely circumstantial was explained by the Court of Appeal in *Chan Chwen Kong v. Public Prosecutor* [1962] 1 LNS 22:

> It must, however, be borne in mind that in cases like this where the evidence is wholly circumstantial what has to be considered is not only the strength of each individual strand of evidence but also the combined strength of these strands when twisted together to make a rope. The real question is: is that rope strong enough to hang the prisoner?[23]

[78] In the course of the Public Inquiry, the Panel was entitled as a matter of law to adopt a less constrained and flexible approach in the reception and admission of the evidence both oral and documentary, than would otherwise have been proper to admit in a civil and criminal trial.

[79] In analysing the evidence available in *Pastor Raymond Koh*'s case, the Panel has adopted a more inclusive rather than exclusive approach. Hence, the Panel has *inter alia*, taken into consideration hearsay, circumstantial or presumptive evidence when determining the cumulative effect of the evidence adduced in the Public Inquiry.

Detailed Facts Of The Disappearance Of Pastor Raymond Koh

Direct Evidence

[80] Based on the direct evidence available, the Panel has noted the following:

80.1 Susanna had testified that on 13 February 2017 at about 8.45am, Pastor Raymond Koh was with her and their son, Jonathan Koh Szu Hao ("Jonathan") at their home in Prima Sixteen, 12-4 Chapter Two, Jalan 16/18, Section 16, Petaling Jaya, Selangor.

80.2 Susanna further testified that at about 10.15am, Pastor Raymond Koh collected a jar of belacan from her at Puncak Damansara Condominium which he intended to give to his friend at the Harapan Komuniti Office at Jalan SS4C/1, Kelana Jaya, Selangor.

80.3 Roeshan, the eye witness of the incident testified that at about 10.45am on the same morning, he witnessed three black 4WD vehicles and two cars, one of which was a gold Toyota Vios and two motorcycles surrounding a car while he was driving along Jalan SS4B/10, Kelana Jaya in a residential neighbourhood. Subsequently, he saw a struggle between the driver of the car and a few other men who were dressed in black and wore black balaclavas. When Roeshan drove his car closer, an Indian man came up to Roeshan and directed him to "back off" from the scene. Following that, while Roeshan was reversing his car, he saw a Malay looking man taking a video of the incident before all the men and the vehicles including the victim's car were driven off.

80.4 Roeshan also testified that as he was driving off from the scene, he noticed there were shattered pieces of glass on the road as the driver's window of the victim's car was smashed.

80.5 Roeshan testified that the entire incident occurred in less than a minute.

80.6 Roeshan later lodged a police report[24] about the incident at the Kelana Jaya Police Station at 11.54am. After approximately two hours, Roeshan met with one Inspector Ali Asra bin Abu Bakar (IW6)

("Inspector Ali") when he was requested to narrate the incident that he witnessed earlier. Inspector Ali informed Roeshan that based on his description, the incident "was probably a police operation because it fitted the modus operandi of police operations".

80.7 Susanna later testified that on the same day at about 3.30pm, she tried to contact Pastor Raymond Koh *via* his mobile phone but her calls went to his voicemail. Susanna was waiting for Pastor Raymond Koh at their home in Prima Sixteen, Petaling Jaya to pick her up and to meet a friend, Kevin Jesudason in Klang at about 4pm. However, Pastor Raymond Koh did not show up.

80.8 Susanna also testified that she received a call from Jonathan at about 4.45pm informing her that one Albert Teh Chuan Seng (IW8) ("Albert"), the owner of the silver Honda Accord bearing registration number ST5515D driven by Pastor Raymond Koh when he left the house in the morning, had informed him that he received a telephone call from the Police. The Police informed Albert that his car was involved in the "kidnapping of kids".

80.9 Jonathan subsequently lodged two police reports on 14 February 2017 at 12.22am and on 27 February 2017 at 5.25pm at the Kelana Jaya Police Station regarding the disappearance of Pastor Raymond Koh.

Circumstantial Evidence

[81] On 15 February 2017, two days after the disappearance of Pastor Raymond Koh, Jonathan and his sister, Esther Koh Sze Ern ("Esther") went to Jalan SS4B/10, Kelana Jaya and approached the residents of the houses near the scene, in the hope of obtaining CCTV footage of the incident as witnessed by Roeshan.

[82] On the same day, they managed to obtain a CCTV footage of the incident from a house at No. 72, Jalan SS4B/12, Kelana Jaya and on the 16 February 2017, Esther managed to obtain another CCTV footage of the incident from a house at No. 19, Jalan SS4C/12, Kelana Jaya.

[83] On 22 February 2017, Jonathan shared the CCTV footage with ASP Supari bin Muhammad (IW7) ("ASP Supari"), the Investigating Officer of the case in the disappearance of Pastor Raymond Koh. The CCTV footage eventually went viral when it was uploaded by The Star Online.

Summary Of Events Before The Disappearance Of Pastor Raymond Koh

Religious Concerns – Issue Of Alleged Proselytization

[84] Pastor Raymond Koh was a pastor at the Evangelical Free Church in Petaling Jaya from 1994 to 2004. Prior to that, he was a "Director of Operation Mobilisation, in an international mission agency".

[85] In 2004, Pastor Raymond Koh formed Harapan Komuniti together with two other board members, Mohd Rahim bin Ithnen and Sri Ram s/o KJ Gopala Iyer (IW3) ("Sri Ram") at 3-1, Jalan PJS 3/48 Taman Sri Manja, 48000 Petaling Jaya.

[86] Harapan Komuniti is a non-profit organisation that undertakes social and charity work among marginalised and underprivileged communities. The programmes organised by Harapan Komuniti included amongst others a project named *Inspirasi* in Taman Sri Manja, Petaling Jaya, prison programmes with the Johor Prisons Department, disaster relief works when needed and supporting single mothers and their children.

Thanksgiving Fundraising Dinner

[87] Harapan Komuniti's funds came from private donors and fundraising activities. Its accounts are primarily handled by Sri Ram and audited by Soon Yoke Lee & Co.

[88] On 3 August 2011, Harapan Komuniti organised a Thanksgiving Fundraising Dinner at the Dream Centre Hall in Damansara Utama Methodist Church (DUMC) Petaling Jaya. This Thanksgiving Fundraising Dinner attracted the attention of Jabatan Agama Islam Selangor (JAIS). On the night of the Thanksgiving Fundraising Dinner, JAIS' officers together with a team of policemen went to DUMC and questioned several Muslim individuals who were present there. Following that, JAIS questioned these Muslim individuals on their involvement with Harapan Komuniti and their purpose of attending the Thanksgiving Fundraising Dinner at DUMC.

[89] JAIS' raid at the Thanksgiving Fundraising Dinner attracted a significant amount of public attention. Subsequently, the then Federal Minister of Islamic Affairs, Jamal Khir Baharom confirmed that Jabatan Kemajuan Islam (JAKIM) was investigating Harapan Komuniti for alleged proselytisation of Muslims.[25]

[90] Pastor Raymond Koh, at the material time was perceived to have carried out work in the proselytisation and conversion of Muslims into the Christian faith.

[91] On 12 August 2011, about one week after the incident at DUMC, the then UMNO Youth Exco Member, Lokman Noor Adam, the then Senator, Ezam Mohd Nor, and the then Member of Parliament for Kulim Bandar Baharu, Zulkifli Nordin gave religious speeches at Masjid Negeri Shah Alam and stated that there was a need to raise the awareness and danger of proselytisation by DUMC.[26]

[92] On 26 August 2011, about two weeks after the incident at DUMC, Pastor Raymond Koh received an envelope containing two bullets with a note written in red ink at his home in Prima Sixteen, Petaling Jaya. Following that, Pastor Raymond Koh lodged a police report on this. However, the Police did not pursue and/or investigate the matter further.[27]

[93] On 22 October 2011, a protest rally named *Perhimpunan Sejuta Umat, Sejuta Perangai Murtad* organised by Himpunan Pertubuhan-Pertubuhan Islam (HIMPUN) was held at the Shah Alam Stadium soon after the Sultan of Selangor ordered that no one was to be prosecuted in relation to the DUMC incident.[28]

[94] On 10 November 2015, Pertubuhan Muafakat Sejahtera Masyarakat Malaysia (MUAFAKAT) organised a seminar named *Seminar Pendedahan Ancaman Rencana Kristianisasi (SPARK)* at the Auditorium at Kulliyyah of Architecture and Environmental Design in International Islamic University, Gombak. According to the flyers that were distributed by MUAFAKAT, Dato' DCP Awaludin Jadid, the Ketua Penolong Pengarah, Bahagian Ancaman Extremis Sosial, Cawangan Khas Bukit Aman was invited as a guest speaker. Dato' DCP Awaludin Jadid was called as a witness (IW19) ("Dato' Awaludin Jadid") in the Public Inquiry into the disappearance of Amri Che Mat. At the seminar, Dato' DCP Awaludin Jadid spoke adversely against the Christian faith. He urged the audience and Non-Governmental Organisations (NGOs) to take action against any Christianisation movement in the country. He further added that the demonstrations and protests by NGOs will not resolve the issue on Christiansation.[29]

Immigration Checkpoints Incidents

[95] According to Susanna, after the DUMC incident, Pastor Raymond Koh and his family were often stopped and questioned by Special Branch officers at immigration checkpoints in Johor Bahru and KLIA Airport whenever they returned from Singapore and overseas.

Summary Of Events After The Disappearance Of Pastor Raymond Koh

The Shooting In Baling, Kedah

[96] On 17 June 2017 at 4.25am, there was a shootout between Fauzi and the Special Task Force On Organised Crime (STAFOC) team in Baling, Kedah led by Supt Hazril bin Kamis (IW15) ("Supt Hazril"). As a result of the shootout, Fauzi was killed.

[97] Following that, a forensic team from Alor Setar arrived at the crime scene and found a piece of paper in Fauzi's car with the address of No. 76, Kampung Selarong, Pengkalan Hulu, Perak written on it.

Recovery Of Items Allegedly Relating To Pastor Raymond Koh

[98] Supt Hazril and his team of officers later went to the address to further their investigations ("First Team"). Supt Hazril conducted a search and seized several items at the said address. A search list purportedly prepared by Supt Hazril was tendered as exh. 107A, B & C. The Search List was signed by Supt Hazril.

[99] On 18 June 2017, the Chief Police Officer of Kedah, Dato' Asri bin Yusoff (IW16) ("Dato' Asri") issued a Police Press Statement[30] on the shootout in Baling, Kedah. He listed out the items seized from Fauzi's house at No. 71, Kampung Selarung, Pengkalan Hulu, Perak which included drugs and firearms. Fauzi was suspected to be a drug and firearms trafficker.

[100] It is important to note that in Dato' Asri's Police Press Statement, he did not mention any photographs or car number plates allegedly relating to Pastor Raymond Koh being seized by Supt Hazril during the search of the house.

[101] On 25 June 2017, the then Inspector General Police Tan Sri Khalid bin Abu Bakar (IW5) ("IGP Khalid") held a press conference[31] stating that the Police had been investigating a group suspected to be involved in drug and firearms trafficking since late 2016. Apart from describing how the shootout in Baling, Kedah took place, IGP Khalid stated that the police recovered several items allegedly relating to Pastor Raymond Koh from Fauzi's house. These items included photographs of Pastor Raymond Koh, his house and his car. He further stated that the police believed that the drug trafficking group was the same group involved in the abduction of Pastor Raymond Koh.

[102] On 30 October 2017, IGP Khalid testified in the Public Inquiry that the items allegedly relating to Pastor Raymond Koh seized at Fauzi's house namely either on 18 or 19 June 2017 were discovered by a Second Team of Police Officers from the Serious Crimes Division of Bukit Aman, Kuala Lumpur ("Second Team"). According to IGP Khalid's evidence, the Second Team travelled from Kuala Lumpur to Fauzi's house one or two days after the shootout in Baling, Kedah had taken place.[32]

[103] IGP Khalid further testified that the First Team led by Supt Hazril failed to seize any items allegedly relating to Pastor Raymond Koh in Fauzi's house because the said items "did not arouse any suspicion to the First Team since the First Team is not handling/investigating on Pastor Raymond Koh's case."[33]

[104] On 2 November 2017, ASP Supari, the Investigation Officer in the disappearance of Pastor Raymond Koh, testified in the Public Inquiry that he did not personally search Fauzi's house or seized the items allegedly relating to Pastor Raymond Koh. He further added that he was only informed by SAC Fadzil bin Ahmat (IW11) ("SAC Fadzil") about the recovery of items allegedly relating to Pastor Raymond Koh.[34]

[105] On 23 November 2017, SAC Fadzil testified in the Public Inquiry that he and his team did not search Fauzi's house or seized the items allegedly relating to Pastor Raymond Koh. However, he added that ASP Supari received the items allegedly relating to Pastor Raymond Koh from the Seizing Officer, ASP Toh in Pengkalan Hulu.[35]

[106] On 15 October 2018, the Timbalan Pengarah Jabatan Siasatan Jenayah Risikan dan Operasi, CP Dato Huzir Bin Mohammad (IW14) ("CP Huzir") testified that only one STAFOC team led by Supt Hazril bin Kamis (IW15) ("Supt Hazril") had travelled from Kuala Lumpur to the crime scene in Baling, Kedah. He also clarified that Supt Hazril was not from Bukit Aman but from the Police Contingent of Perak and Kedah.[36] The same STAFOC team led by Supt Hazril had searched Fauzi's house in Pengkalan Hulu, Perak and found the items allegedly relating to Pastor Raymond Koh.[37]

[107] During further examination by counsel on behalf of Pastor Raymond Koh's family on IGP Khalid's evidence, CP Huzir further testified that he assumed that the Second Team referred to by IGP Khalid was the Selangor team that arrived later and received the items allegedly relating to Pastor Raymond Koh from the STAFOC team. He added that the Second Team did not discover the items allegedly relating to Pastor Raymond Koh but merely received them. CP Huzir continued to testify that he disagreed with IGP Khalid's evidence "that the Second Team only went to Fauzi's house one or two days after 17 June 2017". CP Huzir contended at the Public Inquiry that the Second Team searched Fauzi's house on the same day on 17 June 2017.[38]

[108] On 7 December 2018, Supt Hazril testified in the Public Inquiry that CP Huzir was the Commander of STAFOC. Supt Hazril also testified that two weeks prior to the shooting incident on 17 June 2017, he received an order from CP Huzir to arrest a group of arm smugglers that operated at the border of Malaysia-Thailand. Supt Hazril added that he led a STAFOC team from Bukit Aman, Kuala Lumpur to the shootout in Baling, Kedah. As a result, Fauzi was killed in the shootout.

[109] After the shootout in Baling, Kedah, a forensic team from IPK Kedah arrived at the crime scene[39] and found a piece of paper with an address in Fauzi's car. The address was No. 76, Kampung Selarong, Pengkalan Hulu. Supt Hazril and his STAFOC team searched the premises which was a rumah kampung papan on wooden stilts.[40]

[110] Following that, Supt Hazril and his STAFOC team discovered and seized a list of items including firearms and items allegedly relating to Pastor Raymond Koh in Fauzi's house.[41] Supt Hazril further testified that there was no Second Team from Selangor which searched Fauzi's house in Pengkalan Hulu, Perak and that his team was the only team that seized the items allegedly relating to Pastor Raymond Koh.[42]

[111] Following the shootout in Baling, Kedah and the search at Fauzi's house in Pengkalan Hulu, Perak, Supt Hazril testified that on 17 June 2017, he lodged two police reports at 9.04am at Tanjung Parit, Baling, Kedah and at 4.10pm at Pengkalan Hulu, Perak which were produced as exhibits in the Public Inquiry.[43]

[112] The Search List consisting of three pages of the items seized by Supt Hazril from Fauzi's house on 17 June 2017 at 2.30pm was also produced as exhibits in the Public Inquiry. The address listed on the Search List was No. 76, Kampung Selarong, Pengkalan Hulu.[44] Supt Hazril also confirmed at the Public Inquiry that the Search List was prepared by him.[45]

[113] On 7 December 2018, Dato' Asri testified in the Public Inquiry that the contents of the Police Press Statement he released on 18 June 2017 in relation to the shootout in Baling, Kedah were true and accurate. He further maintained that he did not see any items allegedly relating to Pastor Raymond Koh in Fauzi's house,[46] hence he did not make mention of the said items in his Police Press Statement.

[114] Furthermore, the items allegedly relating to Pastor Raymond Koh were never produced by the Police in the Public Inquiry in its original form even though the items had been requested by the Panel repeatedly to be produced before it. Instead, on 13 December 2018, a coloured picture showing the items allegedly relating to Pastor Raymond Koh[47] was later forwarded by the Officers Appearing for the Police to the Assisting Officers of SUHAKAM, after hearing of the Public Inquiry had been closed. Accordingly, that coloured picture was not tendered through a witness in the Public Inquiry and was not marked as an exhibit.

Evidence Of Sergeant Shamzaini Mohd Daud

Introduction

[115] At the hearing of the Public Inquiry into the disappearance of Amri Che Mat, Norhayati testified that one Mohd Shamzaini Mohd Daud, a Sergeant with E5 Division (Economic Intelligence) of the Special Branch in Kangar, Perlis ("Sgt Shamzaini") came to her house at about 10.30pm on 12 May 2018 and informed her that the Special Branch, Bukit Aman, Kuala Lumpur had abducted Amri Che Mat under the command of Dato' Awaludin Jadid. Norhayati also stated that Sgt Shamzaini told her that it was the same team from Special Branch, Bukit Aman, Kuala Lumpur that had caused the disappearance of Pastor Raymond Koh. They spoke for two hours while seated on the verandah of the first floor of Norhayati's home. Norhayati's daughter Nur Amirah, was present during the meeting.

[116] Both Norhayati and Sgt Shamzaini were called as witnesses in the Public Inquiry into the disappearance of Amri Che Mat and gave evidence of the meeting held between them on 12 May 2018 at about 10.30pm.

Details Of Sgt Shamzaini's Evidence Provided By Norhayati

[117] The fact of his visit to Norhayati's house on the night of 12 May 2018 was not denied by Sgt Shamzaini. However, Sgt Shamzaini has denied the contents of the information said to have been given to Norhayati.

[118] Norhayati's version of events of the night of 12 May 2018 is as follows:

118.1 Sgt Shamzaini's visit was unannounced. Norhayati answered a knock on her door, and she asked who it was. Sgt Shamzaini did not answer immediately but asked her if she was Norhayati. When she confirmed that she was Norhayati, Sgt Shamzaini told her that he wanted to speak to her about her husband and that he could not speak to her outside the house.

118.2 Norhayati then asked him to move his motorcycle out of sight and to follow her up the external staircase to the verandah on the first floor. Her daughter, Nur Amirah joined them at the verandah. Sgt Shamzaini initially sat on the top of the stairs. However when he saw the lights of a police car on patrol along the road, he moved further down the staircase so that he could not be seen from the road. Norhayati and Nur Amirah sat on the floor of the verandah.

118.3 While at the verandah, Sgt Shamzaini introduced himself as "Sham" and showed Norhayati and Nur Amirah his identity card and the police identification card. He told them that he was a Sergeant with the Special Branch, Kangar, Perlis under the command of ASP Razman.

118.4 According to Norhayati, Sgt Shamzaini came to see her to give her information on Amri Che Mat's disappearance. He told her that the Perlis Police and ASP Razman had intended to arrest Amri Che Mat for his Shia activities and illegal Forex trading. However, without ASP Razman's knowledge, Amri Che Mat was taken away by a team from the Special Branch in Bukit Aman, Kuala Lumpur under the command of Dato' Awaludin Jadid.

118.5 When Sgt Shamzaini told her about the abduction by the Special Branch team, Norhayati asked him about Raymond. Sgt Shamzaini told her that Raymond was abducted by the same team for proselytising Christianity amongst the Muslims. He told her that that team was also under the command of Dato' Awaludin Jadid.

118.6 Norhayati testified that Sgt Shamzaini informed her that the then IGP, Tan Sri Khalid bin Abu Bakar was aware of the operation. He also told her that the then Perlis Chief Police Officer, Dato' Ab Rashid and the former Head of Special Branch in Perlis, one "Mat Ali" were also aware of the operation. The operation was crude and the dumping of Amri Che Mat's car was unplanned.

118.7 He gave her further details that one Inspector Khor was instructed to give false evidence about the gold coloured Toyota Vios and that Inspector Khor's evidence was discussed and planned in advance by

A the Police. He also informed her that the Toyota Vios was in fact present during the abduction and that one Azam Azahari was in the vehicle together with its owner.

118.8 Sgt Shamzaini claimed that he was volunteering this information because what was done is not right and that he did not wish to be
B complicit. He said that with the change in Government, he hoped the truth may be exposed.

118.9 The meeting ended with Norhayati giving RM100 for Sgt Shamzaini to buy a mobile phone and a SIM card so that they could remain in
C contact privately. He did not leave any contact details but the understanding was that he would contact her and forward her information.

118.10 Immediately after Sgt Shamzaini left, Norhayati exchanged a number of WhatsApp chat messages with one Aizat before speaking to him
D on the phone. The WhatsApp chat messages while in shorthand, contained a summary of the meeting. Aizat asked her to make a note of the meeting lest she would forget the details. She then wrote down some notes about the meeting in a Note Book, which was tendered in evidence as exh. 60(a-c) in the Public Inquiry into the
E disappearance of Amri Che Mat.

118.11 By the time she had finished writing her notes, Aizat and one Annuar came over to her house and she recounted to them what Sgt Shamzaini had told her. After meeting Aizat and Anuar, Norhayati contacted Mohd Faisol Abd Rahman (IW2 in the Public Inquiry into
F the disappearance of Amri Che Mat) ("Mohd Faisol") of Perlis Hope by WhatsApp chat messages and later spoke to him.

118.12 She recounted the visit and the information Sgt Shamzaini gave her to Mohd Faisol.

G 118.13 Mohd Faisol contacted Sheryll Stothard (IW15 in the Public Inquiry into the disappearance of Amri Che Mat) ("Sheryll Stothard"), a social activist, an adviser to Norhayati. Sheryll Stothard then contacted Norhayati around 7am on the morning of 13 May 2018 by WhatsApp chat messages and arranged to speak to her at around 11am, after consulting the lawyers.

H 118.14 Following discussions with Sheryll Stothard and when Norhayati did not hear from Sgt Shamzaini, Norhayati decided to lodge a police report so as to create an official record of the meeting with him. She was afraid to lodge the report in Kangar given its "proximity" to her
I home and had intended to lodge the report in Kedah. However, as she was to meet her lawyers in Selangor, she decided to lodge a report there. She met with her solicitors in their office in Petaling Jaya, and lodged her report on 15 May 2018 at the Selangor Police headquarters in Section 9, Shah Alam.

118.15 Norhayati denied meeting Sgt Shamzaini on the morning of 12 May 2018 outside her home as claimed by Sgt Shamzaini.

118.16 Norhayati also denied that the conversation she had with Sgt Shamzaini on the night of 12 May 2018 at her home was about Sgt Shamzaini's intention to rent the business premises occupied by Ris a/l Chooi (Pharid) (IW16 in the Public Inquiry into the disappearance of Amri Che Mat) ("Pharid"), which is adjacent to Norhayati's house.

[119] Sgt Shamzaini's version of the events is as follows:

119.1 Sgt Shamzaini denied that he gave any information about Amri Che Mat to Norhayati. He said that he visited the house not knowing that it was Norhayati's home and that he was directed to the house by one Pharid who was running Pharid Audio, a car accessory workshop adjacent to Norhayati's house.

119.2 He initially said that he went to Pharid Audio on the morning of 12 May 2018 to have his car tinted. The shop was closed so he tried to contact Pharid by calling Pharid's number which was displayed on a banner hung outside the premises. This was at 8.56am. As he could not get through Pharid's line, he made two further attempts. Following that, he went to a nearby paddy field and waited there until he was able to speak to Pharid at 9.18am.

119.3 While discussing with Pharid about getting his car tinted, Sgt Shamzaini said he also inquired about renting the premises occupied by Pharid, as he wanted to operate a car repair workshop business there. He said that Pharid then told him that he should speak to the owner who occupied the adjacent house as he did not have the owner's telephone number.

Presence Of The Gold Toyota Vios

[120] On 19 October 2017, Roeshan testified in the Public Inquiry into the disappearance of Pastor Raymond Koh that he saw a gold Toyota Vios at the scene of the incident on 13 February 2017. He further testified that the gold Toyota Vios was driven by a male Malay.

[121] It is important to note that on 21 March 2018, one Vee Yak a/l Ban Jong (IW2 in the Public Inquiry into the disappearance of Amri Che Mat) ("Vee Yak"), the owner of Bengkel JST Auto Mechanics similarly testified that there were three cars parked across the road from his workshop for three consecutive days before Amri Che Mat's disappearance. He further testified that one of the said cars was a gold Toyota Vios. He had taken down the car registration number of the gold Toyota Vios (PFC 1623) as he was afraid that his workshop was being observed or watched by either car repossessors or people who were up to no good against him. Vee Yak's workshop was

located 150 metres from and on the same side of the road as Amri Che Mat's house along Jalan Padang Behor, Kangar, Perlis. Hence, Vee Yak was able to see the gold Toyota Vios from his workshop clearly.

[122] Following that, Vee Yak testified that he passed the information about the three cars including the registration number of the Toyota Vios to one Norhafizal bin Mohd Ariffin ("Norhafizal") and one Mohd Aizat bin Zahid ("Aizat") (IW16 and IW14 in the Public Inquiry into the disappearance of Amri Che Mat respectively). Subsequent to receiving this information from Vee Yak, Aizat immediately contacted one Inspector Khor Yi Shuen, the Investigating Officer into the disappearance of Amri Che Mat (IW9 in the Public Inquiry into the disappearance of Amri Che Mat) ("Inspector Khor") on 26 November 2016.

[123] On 3 April 2018, Inspector Khor testified in the Public Inquiry into the disappearance of Amri Che Mat that he had conducted a Jabatan Pengangkutan Jalan ("JPJ") search on the car registration number of the gold Toyota Vios and sent his officers to interview and record a statement from the owner of the vehicle. He initially stated that he could not recall the name of the owner and that he had ruled out that this was the gold Toyota Vios was the one Vee Yak saw on the basis that the vehicle was in Kuala Lumpur at the material time and the vehicle had never been to Perlis.

[124] During further examination in the Public Inquiry into the disappearance of Amri Che Mat, Inspector Khor was shown the JPJ particulars of the vehicle bearing registration number PFC 1623. He was asked whether the owner of the vehicle was one Saiful Bahari bin Abdul Aziz ("Saiful Bahari") as stated in the JPJ records. He confirmed that Saiful Bahari was indeed the owner and the person whose statement his officer had recorded. However, he stated that he could not remember Saiful Bahari's occupation.

[125] Following that, Inspector Khor was given a list of written questions, including questions about the gold Toyota Vios for him ascertain evidence about the owner during a break in the hearing of the Public Inquiry. The list of questions was submitted by counsel for the family of Amri Che Mat to Inspector Khor with the consent of the Panel. In his written answers, Inspector Khor identified Saiful Bahari as an administrative assistant working at the Police Training Center (PULAPOL) at Jalan Semarak in Kuala Lumpur. In evidence, Inspector Khor said that Saiful Bahari had stopped work at PULAPOL in November 2017. He said he tried to locate Saiful Bahari at his home address but Saiful Bahari could not be found there. Inspector Khor informed that Saiful Bahari's supervisor at PULAPOL was one Inspector Mohd Azizie Abd Hamid (IW21) ("Mohd Azizie"). It was later learnt that Mohd Azizie was in fact holding the rank of an ASP and not an Inspector, attached to the Special Branch, Kuala Lumpur.

[126] On 6 August 2018 and 27 August 2018, ASP Mohd Azizie testified in the Public Inquiry into the disappearance of Amri Che Mat. He identified himself as an Assistant Superintendent of Police with the Logistics Management and Housing Department of the Special Branch in Bukit Aman. He said that Saiful Bahari was the only staff attached to him at the material time in PULAPOL and gave the impression that Saiful Bahari's job was as a low level general handyman, said to be in charge of cleaning and maintenance of the Police accommodation in PULAPOL. ASP Mohd Azizie claimed that Saiful Bahari stopped coming to work in early November 2017, while his contract expired in March 2018. A week after Saiful Bahari stopped coming to work, ASP Mohd Azizie said that he tried to contact him and even visited his home but Saiful Bahari could not be located. He also claimed that Saiful Bahari could not have been in the Toyota Vios sighted by Vee Yak in late November 2016 because according to a Schedule of leave which he prepared, Saiful Bahari was working in Kuala Lumpur for the ten days before Amri Che Mat's disappearance. He later confirmed that the Schedule of Leave which he prepared based on Saiful Bahari's leave applications, was for the purposes of giving his evidence at the Public Inquiry.

[127] ASP Mohd Azizie also tried to explain the extraordinary 54 days of leave taken by Saiful Bahari, that this included weekends and that he gave him leave beyond his entitlement because Saiful Bahari had requested for it! However, no other explanation or records apart from the loose leave applications by Saiful Bahari and ASP Mohd Azizie's Schedule of Leave were produced during the Public Inquiry. The purported explanation by ASP Mohd Azizie was not a satisfactory explanation.

Findings Of The Panel

(i) The Modus Operandi

[128] On a consideration of the evidence, the Panel finds that it was Pastor Raymond Koh who was driving the Honda Accord bearing the registration number ST5515D along Jalan SS4B/10, Kelana Jaya, Petaling Jaya on 13 February 2017 at about 10.50am when his car was "boxed-in" by three black 4WDs and was forcibly removed from his car. After which all the three black 4WDs and Pastor Raymond Koh's car were driven off, leaving no one behind.

[129] The Panel relies on the evidence of Roeshan who witnessed the incident and had testified that he saw about five to six persons being involved in the incident. These persons were fully dressed in black clothes and they were masked.

[130] It was contended by counsel on behalf of the family in their written submissions when describing the operation as "meticulously and professionally executed with military-like precision".[48]

[131] However, this contention was disputed by the Officers Appearing for the Police who contended that the abduction of Pastor Raymond Koh was not professionally done "tidak ada bukti-bukti nyata ianya dilakukan oleh kumpulan terlatih yang mana boleh dikaitkan dengan PDRM khususnya Cawangan Khas. Faktor-Faktor aktiviti Pastor Raymond Koh Keng Joo sendiri yang memungkinkan kehilangannya seperti penglibatan dalam aktiviti keagamaan".[49] Further, IGP Khalid had testified in the Public Inquiry that he disagreed with the suggestion that the modus of the operation in the disappearance of Pastor Raymond Koh was a special operation carried out by the police.[50]

[132] The Panel is of the view that while there is no definition of what amounts to "meticulously and professionally executed with military-like precision", or "professionally carried out", the Panel is of the view that regardless of the words used to describe the operation that took place on 13 February 2017 at Jalan SS4B/10, Kelana Jaya, the fact remains that the operation was carried out efficiently and effectively within a span of less than one minute. The Panel further finds that the operation was well organised and well planned as there were even motorcyclists present to direct traffic and a videographer to record the events that took place.

[133] Counsel on behalf of the family in their written submissions also contended that as the five or six persons involved in the operation were fully clothed in black with balaclavas that they must have been members of the police force.[51]

[134] This contention was strongly disputed by IGP Khalid. While agreeing the Police have special units where the officers would be fully clothed in black with balaclavas during an operation, the IGP was of the view that the persons involved in the abduction of Pastor Raymond Koh were not police officers as there was no evidence to suggest that there was a police logo/emblem on the front or back of the black clothes worn by the persons to indicate that they were police officers.

[135] The Panel is of the view that it is not always the case that police officers who participated in special operations and who wore or were fully dressed in black clothes with balaclavas had the police logo/emblem on either the front or the back of their black clothes.

[136] This can be clearly seen in the video marked as exh. 82 of the then Sultan of Kelantan, Tuanku Ismail Petra Sultan Yahya Petra, whose convoy was stopped by another police convoy on 4 May 2010. Some of the officers of the latter convoy can be seen in the video to be fully dressed in black clothes with balaclavas without any police logo/emblem seen on either the front or the back of the black clothes worn. There can be no dispute that the men in black were police officers taking part in a special operation.

[137] From this circumstantial evidence and from the information given by Sgt Shamzaini to Norhayati that it was a team of police officers from Special Branch, Bukit Aman, Kuala Lumpur that had carried out the "abduction" of the Pastor Raymond Koh. it is the findings of the Panel that the disappearance of Pastor Raymond Koh was in fact carried out by the Special Branch, Bukit Aman, Kuala Lumpur.

(ii) The Search And Seizure Of Items At No. 76, Kampung Selarong, Pengkalan Hulu, Perak

[138] The Panel finds that the evidence given by the several police officers on the seizure of the items allegedly relating to Pastor Raymond Koh to be full of inconsistencies and material contradictions. The convoluted accounts of how the items allegedly relating to Pastor Raymond Koh were seized seemed incredulous and an affront to common sense and logic. What should have been a straightforward account of who did what and when leading up to the seizure of the items has been so distorted that the evidence simply cannot be accepted as being credible. So much time and effort has been wasted just trying to make sense of the evidence adduced.

[139] We say this for the following reasons:

139.1 The address written on a piece of paper found in Fauzi's car was No. 76, Kampung Selarong, Pengkalan Hulu, Perak whereas Dato' Asri in his Police Press Statement referred to the house as No. 71, Kampung Selarong, Pengkalan Hulu, Perak.

139.2 The shootout in Baling, Kedah occurred on 17 June 2017 at about 4.25am whereas the search conducted by Supt Hazril was at 2.30pm on the said date. Supt Hazril in his evidence stated that he had prepared the Search List himself on all the three pages in exh. 107A, B and C. However, a quick glance of the Search List clearly shows that the items listed in the Search List were NOT written by Supt Hazril himself as the writing below his signature in exh. 107A, B and C differ substantially from the handwriting listing out the items seized.

139.3 In Supt Hazril's evidence, he pointed out that the house at No. 76, Kampung Selarong, Pengkalan Hulu, Perak was "a rumah kampung papan on wooden stilts" whereas the house at No. 71, Kampung Selarong, Pengkalan Hulu, Perak mentioned by Dato' Asri in his Police Press Statement was a single storey concrete house as shown in the photograph marked as exh. 117A.

139.4 Items six to nine in exh. 107B and item one in exh. 107C in the Search List were stated under "Tempat/Lokasi Barang-Barang yang dijumpai" to be "di bawah rumah". If the house was on wooden stilts, seizure of the items "di bawah rumah" may be self-explanatory but not if the house is a single storey concrete building.

[140] Supt Hazril testified that he found and seized the items listed as number five in his Search List, marked as exh. 107A on 17 June 2017, whereas Dato' Asri in his Police Press Statement on 18 June 2017 made no mention of the items allegedly relating to Pastor Raymond Koh. If indeed and in fact there was a connection between the seizure of the items allegedly relating to Pastor Raymond Koh recovered on the day of the shootout in Baling, Kedah on 17 June 2017, it would have been reasonably expected that Supt Hazril or some other officer would have informed Dato' Asri of this seizure. As Dato' Asri did not mention the items allegedly relating to Pastor Raymond Koh in his Police Press Statement, it would mean that either he was not so informed or the items allegedly relating to Pastor Raymond Koh were NOT seized at the material time.

[141] It must be remembered that IGP Khalid had testified that it was the Second Team that had seized the items from Fauzi's house. This evidence is riddled with potholes because:

141.1 It was Supt Hazril who claimed that his team, the First Team that had seized the items allegedly relating to Pastor Raymond Koh;

141.2 It is illogical for the Second Team to go to Fauzi's house one or two days after the shootout in Baling, Kedah after the items allegedly relating to Pastor Raymond Koh were said to have been already seized by Supt Hazril on 17 June 2017;

141.3 If in fact the items allegedly relating to Pastor Raymond Koh were seized by Supt Hazril and removed from Fauzi's house, then there would have been no items left to be seized by the Second Team;

141.4 On 15 October 2018, CP Huzir testified that the Second Team referred to by IGP Khalid actually went to Fauzi's house on 17 June 2017 itself and not one or two days later, thereby contradicting the evidence of IGP Khalid;

141.5 On 2 November 2017, ASP Suppari testified that he did not go to Fauzi's house and searched and seized the items allegedly relating to Pastor Raymond Koh. ASP Supari also testified that he did not receive the alleged items.

141.6 On 23 November 2017, SAC Fadzil testified that the items allegedly relating to Pastor Raymond Koh which were seized from Fauzi's house were handed to ASP Suppari (by Seizing Officer, ASP Toh from Pengkalan Hulu).

141.7 On 7 December 2018, Dato' Asri maintained in his evidence that the contents of his Police Press Statement were accurate and true, thereby contradicting the evidence of IGP Khalid.

[142] In view of the material contradictions mentioned above, the Panel concludes that the items allegedly relating to Pastor Raymond Koh were never seized from Fauzi's house on 17 June 2017 and if such items were indeed "seized" then they must have been placed there or "planted" by the officers concerned. Alternatively, if the items allegedly relating to Pastor Raymond Koh were not placed or "planted", the Panel concludes on a balance of probabilities that all the said officers who had testified about the items having been seized from Fauzi's house had said so without any factual basis whatsoever and had concocted the evidence.

[143] The Panel therefore rejects the evidence of the several police officers on the purported seizure of the items allegedly relating to Pastor Raymond Koh as being not credible. This would mean that without any credible evidence that the items relating to Pastor Raymond Koh were in fact seized from Fauzi's house, this debunks the contention made by IGP Khalid that the disappearance of Pastor Raymond Koh was somehow related to Fauzi and/or the group of persons alleged to be drug and arms traffickers up North.

(iii) Information Provided By Sgt Shamzaini To Norhayati

[144] The Panel is empowered under s. 14(1)(a) of the Act (i) to procure and examine all such evidence whether written or oral and (ii) to examine all such persons as witnesses, if it is necessary and desirable.

[145] Pursuant to s. 14(1)(d) of the Act, the Panel is further not constrained by provisions in the Evidence Act 1950 in admitting any evidence, whether written or oral, which may be inadmissible in civil or criminal proceedings. As such, the Panel is of the view that the evidence provided by Norhayati in the Public Inquiry into the disappearance of Amri Che Mat can be considered in this Public Inquiry.

[146] In the Public Inquiry into the disappearance of Amri Che Mat, Norhayati testified that Sgt Shamzaini on 12 May 2018 had informed her that the Special Branch, Bukit Aman, Kuala Lumpur under the command of Dato' Awaludin Jadid had abducted Amri Che Mat. She further testified that Sgt Shamzaini told her that it was the same team that had caused the disappearance of Pastor Raymond Koh.

[147] Notwithstanding the fact that Sgt Shamzaini later lodged a police report denying that he told Norhayati about the abduction of Amri Che Mat and Pastor Raymond Koh, the Panel is of the considered view that the evidence provided by Norhayati is more credible compared to that of Sgt Shamzaini.

[148] The Panel is of the view that Sgt Shamzaini's evidence contradicted the testimony of several witnesses:

148.1 Sgt Shamzaini's statement that he inquired into renting the premises contradicted Pharid's evidence. Pharid had a long lease on the premises where he was running his business, and the lease was only due to expire in 2025. Pharid's evidence was that Sgt Shamzaini inquired generally on whether he knew of any premises for rent. Pharid did not evince any intention nor indicate to Sgt Shamzaini that he was going to close down his business! Pharid himself said that there was no discussion with Sgt Shamzaini on the taking over of the lease of his premises.

148.2 Sgt Shamzaini also contended that he met Norhayati twice on 12 May 2018 that is, once in the morning and once in the evening. He said that after he spoke to Pharid, he noticed a woman coming out of the house adjacent to Pharid's shop. He went up to her and asked whether the shop was open and when she told him it was closed, he asked her if it was for rent. He claimed that the woman then asked him a series of questions about himself. He told her that his name was Sham, and that he had been living in Perlis for the last five to six years. He told her that he was attached to the Special Branch Division at the Police Headquarters in Kangar. He then claimed that she told him that she was busy and that he should come over at night to talk to her. This version of events contradicts Sgt Shamzaini's own police report where he had stated that he had only met her once in the evening. According to the evidence of Norhayati, Sgt Shamzaini only met her once on 12 May 2018 and that was in the evening only.

148.3 The telephone call logs on the morning of 12 May 2018 of Sgt Shamzaini, before he met Norhayati, showed that he had contacted Aizat, a member of Perlis Hope before he had even spoken to Pharid. This shows that even before he met Norhayati, Sgt Shamzaini knew that she was somehow connected with Perlis Hope and that was the reason he had contacted Aizat before speaking to Pharid. Sgt Shamzaini wanted Aizat to pass him Norhayati's number.

148.4 When he could not get Norhayati's number from Pharid, he tried calling both Pharid and Aizat again that night. It was only after he had failed to get Norhayati's telephone number, that he knocked on the door of her house after 10pm that evening.

148.5 This also contradicts Sgt Shamzaini's evidence that he went to Pharid Auto to have his car tinted. This was clearly an excuse to speak to Pharid and to get Norhayati's telephone number. If he had genuinely wanted to get his car tinted he would not have called Aizat before he called Pharid, and he would not have asked Pharid for Norhayati's number.

148.6 Firstly, it is incongruous that a policeman from the Special Branch in Kangar, Perlis would want to meet with the wife of a man whose disappearance was the subject of an ongoing police investigation and a Public Inquiry, in which the actions of the Special Branch officers, both in Kangar, Perlis and in Bukit Aman, Kuala Lumpur were under scrutiny. Sgt Shamzaini surely cannot seriously contend that he did not know of Norhayati's identity because from the contradictions outlined above the Panel can safely infer that he knew whom he was talking to before he met Norhayati.

148.7 Secondly, and flowing from the first incongruence, it is the admitted evidence of Sgt Shamzaini that the meeting on the night of 12 May 2018 lasted for two hours, during which time Norhayati confronted him with a series of accusations on the conduct of the police in the disappearance of her husband. The tenancy of the premises occupied by Pharid was not discussed at all except in a very peripheral way. If Sgt Shamzaini is to be believed, it means that he spent two hours listening to Norhayati's accusations and laments about the role of the Police in the abduction of her husband and that he finally left after she threatened to lodge a police report against him accusing him of being part of her husband's disappearance!

148.8 It is absurd to suggest that a Police Officer would have sat on the verandah of Amri Che Mat's house for two hours listening to Amri Che Mat's wife lament on an ongoing investigation when all that he went there for was to ask whether the premises occupied by Pharid was for rental. One would have expected that the minute the conversation turned to the police investigation and the ongoing Public Inquiry, Sgt Shamzaini would have left, if indeed his only purpose was to discuss about the tenancy.

148.9 The only logical explanation for his telephone call to Pharid was that he wanted to get Norhayati's number from him. The talk of a tenancy is illogical and can only be explained as a ruse or cover up for his real intention which was to speak to Norhayati about the disappearance of Amri Che Mat. In all probability he was only trying to speak to Norhayati to arrange to meet her and to pass her the information which she testified that he did.

148.10 No justification was given nor could it be understood why a policeman would go to a lady's home at night knowing that her husband was missing, unless he had some important information he needed to pass to her.

148.11 Sgt Shamzaini's move to sit a little lower on the staircase of Norhayati's verandah when he saw the lights of the Police patrol car was consistent with someone who did not wished to be seen.

148.12 There is considerable confusion in Sgt Shamzaini's evidence in the police report he lodged on 18 May 2018. It is clear that he was spoken to by the Head and Deputy Head of the Special Branch in Kangar, Perlis and had his statement recorded on 17 May 2018 by a senior police officer from Bukit Aman, Kuala Lumpur. Sgt Shamzaini only lodged his report on 18 May 2018 and the police have not produced his witness statement at the Public Inquiry. He was clearly under considerable pressure following Norhayati's report. If he was indeed and in fact threatened by Norhayati as alleged, he would have lodged a police report against her at the earliest opportunity and not three days after the meeting.

[149] In short, Sgt Shamzaini's evidence is filled with inconsistencies and it raises serious doubts on his credibility. Sgt Shamzaini displayed inconsistent and odd behaviour in explaining how he came about Pharid's and Aizat's telephone numbers. The Panel is of the considered view that on a balance of probabilities, Norhayati's version of events in the Public Inquiry into the disappearance of Amri Che Mat is more credible and should be accepted on the following grounds:

149.1 Norhayati's actions post Sgt Shamzaini's visit are consistent with the actions of someone who is telling the truth. At the very least her actions show her to be a person of credibility and her evidence of Sgt Shamzaini's visit and the information he gave her cannot be dismissed as fabricated or incredulous.

149.2 Norhayati has no reason to lodge a police report against Sgt Shamzaini who was at all times a total stranger to her. She did not even know of his existence had he not met her that night. In any event, the police report lodged by Norhayati did not make any accusations against Sgt Shamzaini as he had contended, but was merely to record that such an event occurred.

149.3 Her evidence is corroborated by the evidence of Nur Amirah, her daughter, who was present during the meeting. Nur Amirah is not a minor and attends university. She had testified that she went into the house to get RM100 to hand to Sgt Shamzaini to enable him to purchase a phone so that he could keep in contact with her mother.

149.4 Norhayati's evidence is also corroborated by the evidence of her friends and advisors and Aizat and Faisol, with whom she was in immediate contact following Sgt Shamzaini's visit. There are no material inconsistencies in their evidence.

149.5 The notes on the meeting written by Norhayati immediately after Sgt Shamzaini left contemporaneous and are strong corroborative evidence.

149.6 Norhayati's notes contained facts which could not have come from any other source but from Sgt Shamzaini himself:

(a) There is a reference to the Toyota Vios being located in Jalan Semarak as recorded in her notes after the visit. Jalan Semarak is where Police Training Centre (PULAPOL) is located in Kuala Lumpur and where one Saiful Bahari was working in November 2016. There is no indication of Jalan Semarak being disclosed in any of the evidence adduced in the Public Inquiry and her notes referring to Jalan Semarak could have only come from Sgt Shamzaini; and

(b) The name Azam Azahari that was recorded in Norhayati's note turned out to be a Special Branch officer who had served in Bukit Aman, Kuala Lumpur and later in Perlis and who is now on transfer to Terengganu. Notwithstanding Sgt Shamzaini's denial of all knowledge or involvement in Amri Che Mat's disappearance, Norhayati would have had no means of knowing that such a person even existed unless Azam Azahari's name was given to her by Sgt Shamzaini.

149.7 The making of the police report by Norhayati adds to the credibility of her evidence. The information that she reported to the Police consisted of very serious allegations of an enforced disappearance carried out by the Police in particular the Special Branch, Bukit Aman. It was not made lightly and as a teacher and educated person, she would be fully aware of the consequences of making a false report.

[150] The Panel is of the view that based on Norhayati's evidence, the disappearance of Pastor Raymond Koh was carried out by the Special Branch in Bukit Aman, Kuala Lumpur.

(iv) The Gold Toyota Vios

[151] Based on the evidence adduced in the Public Inquiries into the disappearances of Pastor Raymond Koh and Amri Che Mat, the Panel makes the following findings:

151.1 The JPJ Registration particulars of the Toyota Vios bearing registration number PFC 1623 was current as at 10 April 2018. According to the particulars, the registration was active and the car was insured until 19 February 2019. This means that from the JPJ records, Saiful Bahari was and is the owner of the Toyota Vios at all material times and that he has kept his ownership status including road tax and insurance current.

151.2 In spite of this, Inspector Khor claimed that the Police have not been able to locate Saiful Bahari to testify at the Public Inquiry.

151.3 During the hearing at the Public Inquiry into disappearance of Amri Che Mat, evidence of Inspector Khor relating to the owner of the gold Toyota Vios was not free-flowing. The lack of clarity in the evidence

concerning Saiful Bahari is troubling and there appears to be a concerted effort to obscure or suppress all reference to him and his suspected involvement in this case.

151.4 Although a Special Task Force had been formed in Bukit Aman to coordinate the investigations into the Missing Persons and the information on the presence of the gold Toyota Vios in the days before the disappearance of Amri Che Mat, it is unfortunate that the Investigating Officer, ASP Supari did not take any action to investigate and locate the gold Toyota Vios bearing PFC 1623 and its registered owner. If the owner of the gold Toyota Vios could have been identified earlier, the owner of the car could have been called to participate in an Identification Parade for Roeshan to identify whether that person was at all present at the scene of the crime at the material time.

(v) Shortcomings Of The Police Investigations And Conduct Unbecoming Of The Police

[152] Upon analysing the evidence of the witnesses and the submissions of counsel on behalf of the family of Pastor Raymond Koh, Assisting Officers of SUHAKAM, counsel of the Bar Council and the Officers Appearing for the Police, the Panel is of the view that there are indeed several shortcomings in the police investigations into the disappearance of Pastor Raymond Koh as summarised below:

Delay

152.1 In particular, the Panel noted that there was a significant delay in the manner the investigations into the disappearance of Pastor Raymond Koh were carried out by the police.

152.2 On 13 February 2017 at about 11.54am, Roeshan had lodged a police report at the Kelana Jaya Police Station about the incident he witnessed at Jalan SS4B/10, Kelana Jaya, Petaling Jaya. However, Roeshan only managed to meet Inspector Ali after waiting for approximately two hours.[52]

152.3 It was only on 16 February 2017, three days after the disappearance of Pastor Raymond Koh, that the police had arranged for Roeshan to do a photofit to identify the Indian man whom he saw at the scene of the incident on 13 February 2017. At the police station, Roeshan again waited for another two hours before he could do the photofit.[53]

152.4 In cases such as suspected abduction or even missing persons, early commencement of investigations is of the essence. Therefore, the Panel is of the view that the manner in which the police had commenced their investigations into the disappearance of Pastor Raymond Koh left much to be desired.

The Police's Failure To Obtain CCTV Footage

152.5 Following the disappearance of Pastor Raymond Koh, his family had been actively looking for information and assistance from the residents along Jalan SS4B/10, Kelana Jaya, Petaling Jaya to try to determine what actually happened to Pastor Raymond Koh on the day of the incident. On 15 February 2017, they managed to obtain CCTV footage from two nearby houses along Jalan SS4B/10, Kelana Jaya, Petaling Jaya which partially showed the manner in which Pastor Raymond Koh was abducted.

152.6 The police, on the other hand, failed to obtain any CCTV footage from the nearby houses along Jalan SS4B/10, Kelana Jaya. They merely claimed that "Ada CCTV di rumah yang berhampiran, tapi rumah tertutup, tak ada orang dan berulang kita pergi pun tak ada orang. Bila ada orang pula cakap itu dummy sahaja, bermacam-macam alasan."[54]

152.7 In the Public Inquiry, ASP Supari further testified that although there were CCTVs installed along the route/highways that may have captured the movement of the vehicles along Jalan SS4B/10, Kelana Jaya, Petaling Jaya,[55] most of the said CCTVs were not functioning. ASP Supari further testified that he was unable to confirm the reason for the malfunctioning of the CCTVs or as to how long the CCTVs had been out of order.[56]

152.8 The Panel is of the view that CCTV footage have been regularly relied on by the police to solve crimes. The police's failure to obtain any CCTV footage in relation to the incident along Jalan SS4B/10, Kelana Jaya, Petaling Jaya shows that they lacked seriousness in the manner they conducted their investigations into the disappearance of Pastor Raymond Koh. Their explanation for this failure also fell short of the standard that is reasonably expected of them. Further, the police also refused to reveal initially that they have a control room at the Petaling Jaya Police Station and that Majlis Bandaraya Petaling Jaya and Malaysia Highway Authority had CCTVs under their control as well. This can be seen as an attempt to suppress information by the Police on the disappearance of Pastor Raymond Koh.

Last Ping From Pastor Raymond Koh's Mobile Phone

152.9 In the Public Inquiry, Nazeri bin Mohamad (IW13) ("ASP Nazeri") testified that ASP Supari had only requested him to locate the last location of Pastor Raymond Koh's phone at about 12am on 14 February 2017, that is after almost 12 hours after Roeshan had lodged his police report on 13 February 2017 at 11.54am.

152.10 Following that, ASP Nazeri further testified that he informed ASP Supari at about 12.45am on 14 February 2017 that the general final location of Pastor Raymond Koh's phone was in the vicinity of Jalan S525/25, Taman Mayang, Petaling Jaya.[57]

152.11 The Panel is of the view that upon confirming the final location of Pastor Raymond Koh's phone, the police had failed to go to that area to make a thorough search for Pastor Raymond Koh.

Peter Chong

152.12 The Panel is of the view that the Police were slow in carrying out investigations into leads that could have provided useful information in relation to the disappearance of Pastor Raymond Koh. This is clear when the police had failed to thoroughly investigate the information provided by social activist Peter Chong Fook Meng (IW9) ("Peter Chong") who had reported that he had received a WhatsApp message from an anonymous number on 6 April 2017 claiming that he or she could provide Peter Chong with information on the disappearance of Pastor Raymond Koh.[58]

152.13 The Panel further notes that although Peter Chong later lodged a police report with ASP Chua from Dang Wangi Police Station, Kuala Lumpur and had his statement recorded by ASP Supari, the Police failed to investigate thoroughly with the help of the Thai police authorities to determine fully the events narrated or complained of by Peter Chong that took place in Hat Yai and Pattaya, Thailand.[59]

Conduct Unbecoming

152.14 In addition, the Panel is of the view that the conduct of the police in the investigations into the disappearance of Pastor Raymond Koh was found lacking in propriety and good conduct.

152.15 This can be seen in IGP Khalid's response to reporters in an interview on 20 March 2017 where he stated: "To the media, individuals and NGOs who want to get involved in kidnap cases, *shut your bloody mouth*; you are putting the victim in a high degree of danger."[60] The Panel finds the use of such strong and uncouth language to be improper given that the media and other parties, especially the family of Pastor Raymond Koh were anxiously awaiting updated information from the Police.

Conclusion

Enforced Disappearance By Agents Of The State

[153] The Panel is of the considered view that the enforced disappearance of Pastor Raymond Koh was carried out by agents of the State namely, the Special Branch, Bukit Aman, Kuala Lumpur, within the definition of the first limb under art. 2 of ICPPED.

[154] The basis for this conclusion can be found in the evidence of Norhayati who testified that Sgt Shamzaini had told her on 12 May 2018 at about 10.30pm that it was the Special Branch, Bukit Aman, Kuala Lumpur which had carried out the enforced disappearance of both Pastor Raymond Koh and Amri Che Mat.

Enforced Disappearance By Non-State Agents

[155] The Panel further finds that there is no evidence to support the contention, as suggested by counsel on behalf of Pastor Raymond Koh, that Pastor Raymond Koh was abducted by persons or groups of persons acting with the authorisation, support or acquiescence of the State.

Refusal To Acknowledge The Deprivation Of Liberty

[156] It will be noted that the enforced disappearance of Pastor Raymond Koh was "followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

[157] This conclusion on the refusal by the State, namely the police, to acknowledge the enforced disappearance is supported by the fact that to date, the police have refused to reclassify the disappearance of Pastor Raymond Koh as the case of enforced disappearance from the case of abduction.

Common Features Between The Two Disappearances

[158] The Panel is further of the view that there are common features between the disappearance of Pastor Raymond Koh and Amri Che Mat. The common features that the Panel has taken note of are the following:

(i) Religious Issues

[159] Pastor Raymond Koh was a pastor at the Evangelical Free Church in Petaling Jaya from 1994 to 2004. Following that, he formed Harapan Komuniti together with two others to carry out social and charity work among marginalised and underprivileged communities. At the Thanksgiving Fundraising Event organised by Harapan Komuniti in DUMC on 3 August 2011, the Selangor State Islamic Affairs Department's ("JAIS") officers and a team of policemen raided the premises as there were several Muslim individuals who were found to be present at the event.

[160] Amri Che Mat was born and brought up as a Sunni Muslim. However, he later took interest in Shiaism where the followers hold very contrasting beliefs from those of the adherents of Sunni Islamic. Amri Che Mat was one of the founders of Perlis Hope, an organisation that undertakes to assist the poor and needy in the community regardless of race or religion. However, Perlis Hope was suspected by the then Chief Minister of Perlis, Dato Seri Shahidan Kassim and the Director of Perlis State Islamic Affairs Department ("JAIP'), Dr Hazman Hassan (IW11 in the Public Inquiry into the disappearance of Amri Che Mat) to be a Shia organisation. Further, Amri

Che Mat's home, which is adjacent to the office of Perlis Hope, was inspected by the Mufti of Perlis, his officers, together with police officers from the Special Branch, Kangar, Perlis.

[161] The Panel finds that Pastor Raymond Koh and Amri Che Mat were both individuals targeted by religious authorities and the Police on allegations that they were involved in matters against Islam in Malaysia.

(ii) Direct Surveillance

[162] The Panel also found that there was direct surveillance on the activities carried out by both Pastor Raymond Koh and Amri Che Mat in their respective organisations before their disappearances.

[163] Following JAIS' raid at the Thanksgiving Fundraising Dinner organised by Harapan Komuniti, Susanna testified that Pastor Raymond Koh and his family were often stopped and questioned by Special Branch Officers at immigration checkpoints in Johor Bahru and KLIA Airport whenever they returned from Singapore and overseas. Further, the Federal Minister of Islamic Affairs, Jamal Khir Baharom also confirmed that Harapan Komuniti was investigated for the alleged proselytisation of Muslims.

[164] On the other hand, it is also undisputed that Amri Che Mat was under the close surveillance of the religious authorities, Special Branch in Kangar, Perlis and the Special Branch in Kuala Lumpur. In or around October 2015, the Mufti of Perlis, Dato' Dr Mohd Asri Zainal (1W10 in the Public Inquiry into the disappearance of Amri Che Mat) ("the Mufti") and the officers from the Mufti's department inspected Amri Che Mat's house after receiving a number of complaints about his activities in relation to Shiaism. Following that, the religious authorities and the police officers from the Special Branch spoke to Amri Che Mat directly and warned him against the propagation of his Shia beliefs during the meeting on 22 October 2015.

(iii) Similar Modus Operandi

[165] The Panel is of the view that the *modus operandi* of the disappearances of Pastor Raymond Koh and Amri Che Mat bore uncanny similarities.

[166] In the Public Inquiry into the disappearance of Pastor Raymond Koh, Roeshan testified that he saw a car being "boxed-in" by three 4WD vehicles while he was driving along Jalan S5413/10, Kelana Jaya, Selangor. The driver was seen being dragged out of his car and put into one of the 4WD vehicles. The description of the *modus operandi* was later seen in the CCTV footage obtained by Pastor Raymond Koh's family.

[167] In the Public Inquiry into the disappearance of Amri Che Mat, there was also direct evidence by Saiful Afdzan that he saw a vehicle which matched the description of Amri Che Mat's Toyota Fortuner being "boxed-in" by three 4WD vehicles. The driver attempted to run away from the three 4WD vehicles, but he was caught and dragged back into one of the said vehicles.

[168] Further, in both cases, the persons dragging Amri Che Mat and Pastor Raymond Koh into one of the vehicles, were described to be wearing black clothing.

(iv) Presence Of Gold Toyota Vios

[169] The Panel is of the further view that a gold Toyota Vios was parked near Amri Che Mat's house before his disappearance and that a gold Toyota Vios was at the scene of the abduction of Pastor Raymond Koh was no mere coincidence.

[170] In the Public Inquiry into the disappearance of Pastor Raymond Koh, Roeshan testified that besides the three black 4WD vehicles, there was a gold Toyota Vios at the scene of the incident at Jalan SS4B/10, Kelana Jaya. Following that, he further testified that there was an Indian man who told him to "back off" when he got closer to the scene of the incident. Based on the CCTV footage obtained, it is clear that the Indian man described by Roeshan, was a passenger in the gold Toyota Vios. He had approached Roeshan's car when he saw Roeshan drawing near.

[171] On the other hand, in the Public Inquiry into the disappearance of Amri Che Mat, Vee Yak also testified that he noticed a gold Toyota Vios was parked across the road from his workshop for three consecutive days before Amri Che Mat's disappearance. He took down the car registration number of the gold Toyota Vios (PFC 1623) and this information was later given to Inspector Khor by Aizat. Norhayati also testified that Sgt Shamzaini had informed her that the gold Toyota Vios was in fact present during Amri Che Mat's abduction and that she should advise her solicitors to harp on the fact in the next hearing before the Panel.

Recommendations Of The Panel

[172] Pursuant to the Panel's Last Term of Reference "To recommend measures or guidelines to be taken to ensure that such alleged breach or breaches do not recur," the Panel makes the following recommendations:

Authorities To Respect Freedom Of Religion As A Fundamental Human Right

[173] The fundamental human right to freedom of religion is explicitly set out in the Universal Declaration of Human Rights as well as in art. 11(1) of the Federal Constitution of Malaysia read with art. 11(4) which states that "State law and in respect of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, federal law may control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam." Freedom of religion is also recognised in several other instruments such as the International Covenant on Civil and Political Rights ("ICCPR"), the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and resolutions of the Human Rights Council and the General Assembly, to name a few.

[174] It is therefore vital that the State and its agents, including the Police and equally the State Religious Authorities, recognise and respect this right. The authorities should be reminded of art. 3 of the Federal Constitution of Malaysia *to wit*:

> **Religion of the Federation**
>
> 3(1) Islam is the religion of the Federation; but *other religions may be practiced in peace and harmony* in any part of the Federation.

Demarcation Between The Police And The Religious Authorities

[175] From the evidence adduced during the Public Inquiry, it is clear that both the Police and the Religious Authorities are uncertain of the extent of their powers and jurisdiction in respect of the enforcement against the propagation of Christianisation.

[176] During the Public Inquiry, several concerns regarding the interaction between the Police and the State Religious Authorities were raised, *inter alia*:

176.1 Seminars and religious meetings were held and extended to the public particularly to Muslims, the intentions and message behind these activities were mainly on religious issues and protecting the Islamic faith against Christianity; and

176.2 No formal complaints were lodged to the religious authorities or to the police that could justify why the religious authorities or the police needed to look into the activities of Pastor Raymond Koh or Harapan Komuniti. Even if the religious authorities had reason to look into the activities of Pastor Raymond Koh or Harapan Komuniti, why was police presence required;

[177] The Panel is of the view that the police should not be involved in religious matters unless the situation warrants such intervention as explained in para. 178 below. Therefore, a clear demarcation of police interaction with other departments such as the religious authorities in this case and agencies of the Government must be drawn up, shared with the public and enforced accordingly.

[178] The Panel recognises that there may be situations where religious authorities may need the assistance of the Police so as to ensure that law and order is maintained in the country, where the religious authorities may not have the adequate support and infrastructure to deal with such situations. As such, there must be clear Standard Operating Procedures (SOPs) to govern the intervention of the Police. Importantly it must be emphasised that Police intervention to maintain law and order should only be exercised in situations of real, grave and imminent threats to the national security of the country.

Reforms To Standard Operating Procedures Of The Police

[179] Throughout the Public Inquiry, several complaints were made against the Police. The apparent lack of cooperation, suppression and concealment of evidence by the Police was evident during the course of the hearing of the Public Inquiry. The Panel has highlighted some shortcomings in the Police Investigations in paras. 152 to 152.15 above. The Panel therefore, makes the following recommendations:

Investigation Papers

[180] The Panel is of the view that, provided the disclosure of the documents contend the Investigation Paper requested do not prejudice ongoing investigations, such documents such as the sketch plan of the scene should be declassified, produced and be admitted in the Public Inquiry as evidence to facilitate the Panel's investigations in the interests of justice and public interest.

Cases Of Missing Persons, Abductions And Disappearances

[181] In cases of suspected missing persons, according to the police protocol, 24 hours must have lapsed before a case can be classified as a missing person case. The Panel calls on the police to review this protocol in cases where there are overwhelming circumstances that point to an abduction or involuntary disappearance of a person.

[182] A distinction between this class of cases is necessary so that each case is dealt with appropriately and that no time is wasted. The investigations have to be conducted urgently to increase the chances of finding the missing persons safely.

[183] Reforms on the standard operating procedures should implement stringent training on communications protocol to address missing person cases and include procedures such as informing the progress of the case to the family members and members of the public timeously.

[184] In view of the Panel's finding that Pastor Raymond Koh is the victim of a case of enforced disappearance, the Panel urges the police to reclassify Pastor Raymond Koh's case as an enforced disappearance case from that of a missing person case and to recommend investigating accordingly.

Role Of The Special Branch

[185] Throughout the Public Inquiry, many raised their concerns on the role and functions performed by the Special Branch in public order policing. It is recognised that there appear to be no legal provisions dealing with the functions, powers and duties of the Special Branch.[61] The Panel recommends that the Special Branch be made accountable and its powers and responsibilities are spelt out in law so that it can function impartially and independently and to clearly define the term 'security' to avoid the abuse of power, to further scrutinise the agency and to increase their accountability.

Independent Police Complaints And Misconduct Commission ("IPCMC")

[186] Counsel and observers for the family of Pastor Raymond Koh have submitted that it will be an integral part of the primary investigation into the disappearance of Pastor Raymond Koh to investigate the conduct of the police's investigation to date. This is based on their belief that the ongoing investigation is a sham intended to cover the identities of the abductors and those behind them and that if the investigation itself is investigated those controlling the investigation will be exposed and through them, the identities of the abductors will be revealed.

[187] This supports the call by the Bar Council to establish the IPCMC[62] so that allegations against the police such as the above case re addressed adequately.

[188] Many have called for the setting up the IPCMC as an independent oversight mechanism for the Police since the public has very little confidence in the police to abide by the rules and regulations in safeguarding the interests of the public.

Set Up Of Special Task Force To Investigate The Disappearance Of Pastor Raymond Koh

[189] Following the Panel's findings, it is up to the Police to properly investigate and bring to book the culprit or culprits responsible. Every effort must be made to track down the abductors of Pastor Raymond Koh in a thorough police investigation. For starters, an experienced Investigating Officer should be appointed to reinvestigate the case.

[190] The family needs some closure and answers can only be provided by the State. It is believed that those who have been put in charge so far are withholding the answers to these questions, or are refusing to undertake a diligent exercise to discover them, hence a new and separate task force needs to be set up to re-investigate the disappearance of Pastor Raymond Koh.

[191] Therefore, the Panel recommends that a special task force be set up to reopen and re-investigate the case of Pastor Raymond Koh as an enforced disappearance case, instead of a missing person case.

[192] To ensure a just disposal of the case and the carrying out of proper investigations, the Panel proposes the following guidelines for the operation of the Special Task Force:

192.1 The Special Task Force should comprise of independent investigators to be appointed by the Attorney General. In the event there is any conflict of interest, they ought not to be appointed. In selecting members of the Special Task Force, the appointing parties shall have regard to, *inter alia*, the following:

(c) Persons who have no current or past connections with the criminal investigations conducted into the disappearance of Pastor Raymond Koh;

(d) Persons who have no current or past connections with any current or past member of the STAFOC team and Special Branch, Bukit Aman, Kuala Lumpur.

(e) Persons who have no current or past connections with current or past members of the religious authorities such as JAKIM & JAIS.

192.2 The police shall forward all investigation papers and/or intelligence gathered so far in connection with the disappearance of Pastor Raymond Koh to the Special Task Force for its further action;

192.3 The Special Task Force shall report to the family and SUHAKAM at regular intervals on the progress of its investigations;

192.4 The Special Task Force shall produce a report on the findings of the Special Task Force's investigations which will be made available to the public as soon as possible.

Legal Reforms

Amendments To The Law In Malaysia

[193] The Panel recommends that the Government of Malaysia should review the Penal Code and the Criminal Procedure Code to incorporate enforced or involuntary disappearances under a category specific to cases involving missing persons. In other words, amendments shall effectively make it an offence under the Penal Code, in addition and separate from the offence of abduction and kidnapping.

Ratifying International Instruments

[194] Malaysia has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance 2006.

194.1 By ratifying the Convention, Malaysia will assume an international obligation to eradicate enforced disappearance. The measures set out in the Convention include provisions on, among others

(f) the effectiveness of investigations into enforced disappearances and involuntary disappearances[63];

(g) bringing those directly and indirectly involved to account for their actions[64];

(h) the creation of an additional offence in the penal law with enhanced sentencing for enforced disappearances[65];

(i) the provision of information to the families of victims[66]; and

(j) the training of law enforcement officers[67].

194.2 In short, the ICPPED provides guidelines on identifying elements of an enforced disappearance and clearly outlines the role of the Government in investigating the offence and other related offences.

194.3 The Government should utilise ICPPED to produce a framework for the introduction of legislation to criminalise enforced disappearance as well as to fill up the missing components in Malaysia's legislation.

[195] Further, Malaysia has also not ratified the International Covenant on Civil and Political Rights 1966. This treaty obligates its members to protect and preserve basic human rights, such as: the right to life and human dignity; equality before the law; religious freedom and privacy; freedom from torture, ill-treatment, and arbitrary detention; gender equality; the right to a fair trial; right to family life and family unity; and minority rights.

[196] Following the ratification of the international treaties above, the Government should take further steps to give legal validity to ICPPED and ICCPR in Malaysia to better enable agencies to resolve the issue of 'enforced disappearance'.

[197] In conclusion, the Panel reiterates that in carrying out the Public Inquiry, SUHAKAM was discharging its duty to inquire into infringements of human rights under s. 4(1)(d) of the Human Rights Commission of Malaysia Act 1999, and that the recommendations in this report are made in exercise of SUHAKAM's powers under s. 4(2)(b) of the Act which provides that SUHAKAM may "advise the Government and/or the relevant authorities of complaints against such authorities and recommend to the Government and/or such authorities appropriate measures to be taken."

[198] The findings and recommendations herein are the unanimous findings and recommendations of the Panel of Inquiry.

Addressing The Terms Of Reference

[199] The Panel has reached the following conclusions in relation to its terms of reference:

199.1 In response to para. (a):

- The disappearance of Pastor Raymond Koh was a case of enforced disappearance as defined under the International Convention for Protection of all Persons from Enforced Disappearance; and
- The case of the disappearance of Pastor Raymond Koh was neither a case of voluntary disappearance nor a case of involuntary disappearance in breach of the ordinary criminal law;

199.2 In response to paras. (b)(i), (ii) and (iii):

- The enforced disappearance was carried out by the Special Branch, Bukit Aman, Kuala Lumpur;

199.3 In response to para. (c):

– The Panel finds that the Royal Malaysian Police have not taken adequate steps to investigate the enforced disappearance of Pastor Raymond Koh;

199.4 In response to para. (d):

– The recommended measures or guidelines to be taken to ensure that such enforced disappearances do not recur are as set out above in *part I. Recommendations Of The Panel* above.

Acknowledgment

[200] The Panel takes this opportunity to commend and thank Roeshan for having gone to the police station promptly to lodge a police report after witnessing the incident along Jalan SS4B/10, Kelana Jaya. By doing so, Roeshan had performed his civic duties admirably and responsibly notwithstanding that he had to spend at least two hours waiting to give his statement to Inspector Ali. The conduct of Roeshan augurs well for his legal career in the future.

[201] The Panel wishes to thank all the parties for their attendance, research and submissions, in the conduct of this Public Inquiry. The Panel further thanks learned counsel on behalf of the family and of the Bar Council for having volunteered their services *pro bono* to the family of Pastor Raymond Koh and to the Bar Council respectively and to the Assisting Officers of SUHAKAM and to the Officers Appearing for the Police for their contributions in the conduct of this Public Inquiry.

[202] The Panel wishes to express its deepest concern and sympathies to the family of Pastor Raymond Koh and his loved ones for the grief, anxiety and sadness arising from the enforced disappearance of Pastor Raymond Koh since 13 February 2017. We are sorry we are not able to trace the whereabouts of Pastor Raymond Koh.

Schedule 1: List of Inquiry Witnesses

Inquiry Witness Number	Name
IW1	Roeshan Celestine Gomez
IW2	Susanna Liew Sow Yoke
IW3	Sri Ram s/o KS Gopala lyer
IW4	Jonathan Koh Szu Hao
IW5	YB Tan Sri Dato' Sri Khalid Abu Bakar
IW6	Inspector Ali Asra bin Abu Bakar
IW7	ASP Supari bin Muhammad
IW8	Albert Teh Chuan Seng
IW9	Peter Choong Fook Meng
IW10	Zaaba bin Zakaria
IW11	SAC Fadzil bin Ahmat
IW12	TPPI Hamid bin Momong
IW13	ASP Nazeri Mohamed
IW14	CP Dato' Huzir bin Mohammad
IW15	Supt Hazril bin Kamis
IW16	Datuk Asri bin Yusoff

Schedule 2: List of Exhibits

Exhibit/ID No.	Description of Exhibit	Date
Exhibit 1	Lakaran tempat kejadian Pastor Raymond Koh diculik	19.10.2017
ID2	Video CCTV Rumah No. 72 Jalan SS4	1 9.10.2017
ID3	Video CCTV Rumah No. 19 Jalan 554 – Sudut 1	19.10.2017
ID4	Video CCTV Rumah No. 19 Jalan SS4 – Sudut 2 (1)	19.10.2017
Exhibit 5	Laporan polis yang dibuat oleh Roeshan Celestine Gomez – 13.02.2017	19.10.2017
ID6	Video CCTV Rumah No. 19 Jalan SS4 - Sudut 2 (2)	19.10.2017
Exhibit 7	Rekod keterangan Roeshan Celestine Gomez kepada SUHAKAM	19.10.2017
Exhibit 8	Rekod keterangan Roeshan Celestine Gomez kepada peguam keluarga	19.10.2017
Exhibit 9	The Star TV video	19.10.2017
Exhibit 10	Rekod keterangan Susanna Liew Sow Yoke kepada SUHAKAM	20.10.2017
Exhibit 11	Laporan polis yang dibuat oleh Koh Keng Joo – 26.8.2011	20.10.2017
Exhibit 12	Rekod keterangan Susanna Liew Sow Yoke kepada peguam keluarga	20.10.2017
Exhibit 12(a)	Pindaan jawapan soalan 20 dalam Rekod keterangan Susanna Liew Sow Yoke kepada peguam keluarga	20.10.2017
Exhibit 13	Rekod keterangan Sri Ram a/l KS Gopala lyer kepada SUHAKAM	20.10.2017
Exhibit 14	Rekod keterangan Sri Ram a/l KS Gopala lyer kepada peguam keluarga	20.10.2017
Exhibit 15	Rekod keterangan Jonathan Koh Szu Hao kepada SUHAKAM	20.10.2017

Exhibit 16	Laporan polis yang dibuat oleh Jonathan Koh Szu Hao – 14.2.2017	20.10.2017
Exhibit 17	Laporan polis yang dibuat oleh Jonathan Koh Szu Hao – 27.2.2017	20.10.2017
Exhibit 18	Rekod keterangan Jonathan Koh Szu Hao kepada peguam keluarga	30.10.2017
Exhibit 18(a)	Gambar JK-1	30.10.2017
Exhibit 18(b)	Gambar JK-2	30.10.2017
Exhibit 19	WhatsApp teknikal polis pada Jonathan Koh Szu Hao	30.10.2017
Exhibit 20	Berita online Himpunan Sejuta Umat	30.10.2017
Exhibit 21	Transkrip penuh ucapan Lokman Noor Adam, Ezam Mohd Nor, Zulkifli Nordin di Masjid Negeri Shah Alam	30.10.2017
Exhibit 22	DCP Awaluddin dan Kempen Bukit Aman terhadap Kristianisasi	30.10.2017
Exhibit 23	Keratan Akhbar Berita Harian	30.10.2017
Exhibit 24	Artikel 'Investigate two possible cases of enforced disappearance'	30.10.2017
Exhibit 25	Keratan berita online 'Free Malaysia Today' (Activists questioned over statements on missing pastor)	30.10.2017
Exhibit 26	Press Statement: For Immediate Release (One month since Pastor Raymond's abduction: statement by Susanna Liew Sow Yoke, wife of Pastor Raymond Koh)	30.10.2017
Exhibit 27	Keratan berita online 'Free Malaysia Today' (Pastor Koh: After 50 days, family continues plea for answers)	30.10.2017
Exhibit 28	Raymond Koh 100 days: Media Session	30.10.2017
Exhibit 29	Gambar anggota polis dalam sut hitam dan balaclava	30.10.2017
Exhibit 30	Gambar 2 polis memakai balaclava dan menahan tahanan	30.10.2017

Exhibit 31(a)	Gambar kereta 1	30.10.2017
Exhibit 31(b)	Gambar kereta 2	30.10.2017
Exhibit 31(c)	Gambar kereta 3	30.10.2017
Exhibit 32	Gambar kereta Toyota Hilux hitam	30.10.2017
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Endnotes:

1. Press Statement No.14 Of 2017 (Memorandum from SUARA RAKYAT MALAYSIA (SUARAM) https://www.suhakam.org.my/press-statement-no-14-of-2017-memorandum-from-suara-rakyat-malaysia-suaram/.
2. Press Statement No.20 of 2017 ((SUHAKAM Will Investigate the Cases Of Missing Persons/Disappearance Of Pastor Raymond Koh, Amri Che Mat, Pastor Joshua Hilmi and Ruth Hilmi, To Assist the Authorities with Their Ongoing Investigation) https://www.suhakam.org.my/press-statement-no-20-of-2017-suhakam-will-investigate-the-cases-of-missing-pers ons-disappearance-of-pastor-raymond-koh-amri-che-mat-pastor-joshua-hilmi-and-ruth-hilmi-to-assist-the-authoritie/.
3. Press Statement No. 29 Of 2017 (SUHAKAM's Public Inquiry on Disappearance Cases) https://www.suhakam.org.my/press-statement-no-29-of-2017-suhakams-public-inquiry-on-disappearance-cases/.
4. Press Statements No.41 Of 2017 ("SUHAKAM's Public Inquiry Into the Incidents Of Disappearances Of Individuals") https://www.suhakam.org.my/press-statements-no-41-of-2017-suhakams-public-inquiry-into-the-incidents-of-disappearances-of-individuals/.
5. Refer to Panel's Interim Decision dated 16 May 2018.
6. Refer to Schedule 1.
7. Refer to p. 77 of the Written Submission of Counsel on behalf of the Family of Pastor Raymond Koh dated 15 January 2019.
8. Refer to p. 27 of the Written Submission of the Assisting Officers of SUHAKAM dated 15 January 2019.
9. Refer to p. 18 of the Written Submission of Counsel of the Bar Council dated 4 February 2019.
10. Refer to p. 17 of the Written Submission of the Police.
11. There are other various offences relevant to the discussion on enforced disappearance, among others: Sections 359 to 369 of the Penal Code.
12. IACHR Series C No 70 (Official Citation) [2000] IACHR 7 (Other Reference) IHRL 1453 (IACHR 2000) (OUP reference); IACHR Series C No 91 (Official Citation) [2002] IACHR 1 (Other Reference) IHRL 1474 (IACHR 2002) (OUP reference).
13. Public Inquiry https://en.wikipedia.org/wiki/Public_inquiry.
14. (7 May 2013). Report of the National Inquiry into the Land Rights of Indigenous Peoples (Rep.). Retrieved from https://drive.google.com/file/d/OB6FQ7SONa3PRbUlnUGcxdzdEWUO/preview.

15. Appl. nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, Council of Europe: European Court of Human Rights, 18 September 2009.
16. IACHR Series C No 70 (Official Citation); [20001 IACHR 7 (Other Reference); IHRL 1453 (IACHR 2000) (OUP reference); IACHR Series C No 91 (Official Citation); [2002] IACHR 1 (Other Reference); IHRL 1474 (IACHR 2002) (OUP reference).
17. IACHR Series C no 10 (Official Citation); IHRL 1391 (IACHR 1990) (OUP reference).
18. See also *Velasquez-Rodriguez v. Honduras* (IACtHR, 1988).
19. Appl. nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, Council of Europe: European Court of Human Rights, 18 September 2009.
20. Communication No. R.7/30, 29 March 1982.
21. IACHR Series C No 70 (Official Citation) [2000] IACHR 7 (Other Reference) IHRL 1453 (IACHR 2000) (OUP reference); IACHR Series C No 91 (Official Citation) [2002] IACHR 1 (Other Reference) IHRL 1474 (IACHR 2002) (OUP reference).
22. Inter-Am.Ct.H.R. (Ser. C) No. 4 (1988), Inter-American Court of Human Rights (IACrtHR), 29 July 1988.
23. See also *Sunny Ang v. Public Prosecutor* [1965] 1 LNS 171, where the appellant was convicted of murder even though the body of the deceased was not found and the prosecution relied on circumstantial evidence.
24. Refer to exh. 5 produced in the Public Inquiry.
25. Refer to p. 7 of exh. 10 produced in the Public Inquiry.
26. Refer to exh. 21 produced in Public Inquiry.
27. Refer to exh. 11 produced in the Public Inquiry.
28. Refer to exh. 20 produced in the Public Inquiry.
29. Refer to exh. 22 produced in the Public Inquiry.
30. Refer to exh. 40 produced in the Public Inquiry.
31. Refer to exh. 42 produced in the Public Inquiry.
32. Refer to p. 179-181 notes of proceeding dated 30 October 2017.
33. Refer to p. 179-181 notes of proceeding dated 30 October 2017.
34. Refer to p. 176 notes of proceeding dated on 2 November 2017.
35. Refer to pp. 106-107 notes of proceeding dated on 23 November 2017.
36. Refer to pp. 39-42 notes of proceeding dated on 15 October 2018.
37. Refer to p. 49 notes of proceeding dated on 15 October 2018.
38. Refer to pp. 51-53 notes of proceeding dated 15 October 2018.
39. Refer to pp. 11-13 notes of proceeding dated on 7 December 2018.
40. Refer to pp. 36-40 notes of proceeding dated 7 December 2018.

41. Refer to pp. 43-53 notes of proceeding dated 7 December 2018.
42. Refer to pp. 68-69 notes of proceeding dated 7 December 2018.
43. Refer to exhs. 108 and 111 produced in the Public Inquiry.
44. Refer to exh. 107A, B & C produced in the Public Inquiry.
45. Refer to pp. 96-101 notes of proceeding dated 7 December 2018.
46. Refer to p. 135 notes of proceeding dated on 7 December 2018.
47. Refer to the Letter from the Police to SUHAKAM dated 13 December 2018, Re: Permohonan Bukti Fizikal/Gambar Barang Rampasan Berhubung Kes Kehilangan Pastor Raymond Koh.
48. Refer to p. 2 of the written submissions by counsel on behalf of the Family of Pastor Raymond Koh dated 15 January 2019.
49. Refer to p. 32 of the written submissions by the Officers Appearing for the Police.
50. Refer to pp. 79-81 notes of proceeding dated on 30 October 2017.
51. Refer to p. 20 of the written submissions by counsel on behalf of the Family of Pastor Raymond Koh dated 15 January 2019.
52. Refer to p. 35 notes of proceeding dated on 19 October 2017.
53. Refer to pp. 37, 38 notes of proceeding dated on 19 October 2017.
54. Refer to p. 151 notes of proceeding dated on 2 November 2017.
55. Refer to exh. 19 produced in the Public Inquiry.
56. Refer to pp. 14-16 notes of proceeding dated on 13 November 2017.
57. Refer to p. 10 notes of proceeding dated on 7 September 2018.
58. Refer to p. 7 notes of proceeding dated on 14 November 2017.
59. Refer to p. 53 notes of proceeding dated on 14 November 2017.
60. Refer to exh. 35 produced at the Public Inquiry.
61. Report of the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police 2005.
62. Recommendation in Report of the Royal Commission to Enhance the Management and Operation of the Royal Malaysian Police (2005).
63. Articles 3, 12, 19 and 22 of the ICPPED.
64. Articles 6 and 10 of the ICPPED.
65. Article 7 of the ICPPED.
66. Articles 18 and 24 of the ICPPED.
67. Article 23 of the ICPPED.